Modus tenendi Parliamentum:

OR,

The Old Manner of holding *PARLIAMENTS* in *ENGLAND.*

Extracted out of our Ancient RECORDS.

With certain Municipal Rights and Cuſtomes of this Common-wealth of *England.*

Together with,

The PRIVILEDGES of PARLIAMENT: and the Manner how Lawes are there Enacted by PASSING of BILLS.

Collected many years paſt out of the Journal of the Houſe of COMMONS.

By W. HAKEWEL of *Lincolns Inne*, Eſq;

LONDON,

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OR,

PARLIAMENTS

IN ENGLAND,

Extracted out of our Ancient

RECORDS,

With certain Municipal Rights and Customs of this Commonwealth of England.

Collected many years past out of the

TO THE INTELLIGENT

READER.

IT *is no improper Character which may be given of the* Law, *that it is nothing else but* Reason refin'd, *or* Reason regulated; *it may also be well called the Results of Counsel and Wisdom, after mature and long deliberation; for* Deliberandum est diu, quod statuendum est semel: *That which is to bear the stamp of a* Law, *must be a long time a moulding: there must be prævious debates, bandings of arguments, and clashings of opinions* pro & con *go before: for as we find that fire issueth forth from the concussion of flint and iron, so truth comes forth out of*

the eventillations and clashings of several opinions. This hath been alwayes the mode and method of our English *Parliaments, that high National Court, which may be said to be the fountain whence our Lawes do spring: which Court being composed of a number of the choicest and most judicious Gentlemen of the whole land when there assembled, have power not onely to constitute and enact new Lawes, but to enlarge, alter, repeal, disanul, or revive any old Statute, Act, or Ordinance for the common good and incolumity, as also for the welfare and securing of the Nation. This great Councel hath been alwayes held to be the Bulwark of our liberties, the main boundary and bank which keeps us from the inundations of tyrannical power, from arbitrary and unbounded will Government; It is the only prerogative of Parliament* jus dare, *and afterward of the*

grave Judges upon their ſeveral Tribunals jus dicere, *to declare, expound, and put in execution the Lawes, and Conſtitutions which have been there enacted.*

This preſent Treatiſe conſiſting of ſundry Material parts, will ſhew us the manner and legal forms how this high Court of Parliament hath been held from the beginning. It was compiled by that worthy Gentleman Mr. Hakewel, *one of the Benchers of* Lincolns-*Inne, a grave and judicious Councellor at law, one who had ſate in divers Parliaments, and having out of his great reading, and long converſation with antiquity, extracted thoſe remarkable obſervations whereof this book is compoſed, it was thought expedient to publiſh it for the generall good. Therefore it is very fit to be read by all free-born Subjects, for thereby they will inform their*

their understandings upon what grounds our Lawes and Liberties are founded.

The

THE MANNER OF HOLDING A *PARLIAMENT* in the second of *EDWARD* the Confeſſor Son of K. *Etheldred.*

HEre is deſcribed the Manner after which the *Parliament* of the King of *England*, and of his Engliſh People was kept in times of King *Edward* the Son of *Etheldred* the King; which manner was rehearſed by the diſcreet ſort of the Kingdome, before *William* Duke of *Normandy* the Conquerour, and King of *England*; the Conqueror himſelf commanding this; and by himſelf approved and uſed in his times, and in the times of his Succeſſors Kings of *England*.

Of the Summons of Parliament.

The Summons of *Parliament* ought to go fourty dayes before the first day of the *Parliament*.

Concerning the Clergy.

The *Parliament* ought to be summoned and come, the Arch-Bishops, Bishops, and other chief of the Clergie, who come thither by holding of some County or Barony, and because of such tenure, and not otherwise; and none of the less degree of the Clergy, unless their presence and coming thither may be required in some other respect than by their Tenures; or, unless they be of the Kings Councell, or their presence may be deemed necessary, or accounted profitable for the *Parliament*: and the King is bound to minister unto them their costs and expences in coming and tarrying at the *Parliament*. Neither ought such of the lower degree of the Clergie-men be summoned to the *Parliament*, but the King was wont together to send out

Per Comitatum & Baron. summoneri debent. Minctes Clerici non summoneri debent, sed si eorum præsentia necessaria fuerit. Rex solebat talibus brevia sua mittere, regans quod Parliam. sua interesse

ſend out his Writs to ſuch men, requiring them that they ſhould be preſent at his *Parliament*.

Alſo the King was wont to give Summons to the Arch-biſhops, Biſhops, and others exempted perſons; or to Abbots, Priors, and other Eccleſiaſticall perſons, that have by ſuch exemptions and priviledges their ſeverall juriſdictions, according to their ſeveral Deaneries, and Arch-deaneries of *England*, through their Deaneries and Arch-deaneries aforeſaid, ſhould cauſe to be choſen two skilful and fit Proctors or Clerks of the Convocation-houſe out of the ſame Arch-deanery, to come and to be preſent at, to anſwer, to undergo, to alledge and to do there, that which all and every Parſon of their Deaneries, and Arch-deaneries ſhould, if they, and all, and every of them were perſonally preſent there. And that ſuch Proctors or Clerks of the Convocation-houſe come with their two Warrants, ſealed with the ſeals of their ſuperiours, becauſe they are choſen and ſent to ſuch a Proctorſhip: The one of which Letters ſhould be delivered to the Clerk

of the *Parliament* to be enrolled, and the other remain in the Proctors and Clerks themſelves: and ſo under theſe two kinds of Summons, the whole Clergy ought to be ſummoned to the Kings *Parliament*.

Concerning the Laity.

Summoneri debent omnes & ſinguli Comites, Barones & eor. pares qui tenent ad valent. unius Comitat. vel Baron. integræ.

Alſo all and every Earle, and Baron, and their Peer, ought to be ſummoned and come to the *Parliament*, to wit, thoſe that have Lands and Revenues to the value of a whole County, which maketh four hundred pounds in the whole; or to the value of one whole Barony, to wit, Thirteen fees, and the third part of one Knights fee, every fee being reckoned at twenty pounds, makes in the whole, four hundred marks; and no lower Lay-men ought to be ſummoned to come to the *Parliament* by reaſon of their tenure, unleſſe their preſence for other cauſes be profitable and neceſſary to the *Parliament*; and then they ought to be dealt withall, as is ſaid of the lower degree of the *Clergy*, men who are not bound by reaſon of their tenure to come to the *Parliament*

Minores laici ſummoneri non debent.

Alſo

Alſo the King was wont to ſend his Writs to the Warden of the Cinque Ports, that he might cauſe to be choſen to come and be preſent at the *Parliament* to anſwer, undergoe, and do there that which their Burroughs themſelves ſhould doe, if all and every one of them were perſonally preſent there; and ſuch Barons ſhould come with their two Warrants ſealed with the common Seales of their Ports, to ſhew that they were orderly choſen, and ſent from the Baronies to that end; the one whereof ſhall be delivered to the Clark of the *Parliament*, and the other to remain with the Barons themſelves: And when ſuch Barons of the Ports, having obtained Licenſe, ſhould depart from the *Parliament*, then they were wont to have a Writ under the great Seale of the VVarden of the Cinque Ports, that they might have their reaſonable Coſts and Expences, meet for ſuch Barons, out of the County of the Port from whence they came towards the *Parliament*, until the day wherein they returned home

to their own houſes, there being expreſs mention made in the Writ of the ſtay they made at the *Parliament*, and of the day wherein to return. Yea, there was wont ſometimes mention to be made in the Writ, how much ſuch Barons ſhould take of the Counties from whence they came for a day, to wit, ſome had more, ſome had leſs, according to the ability, and honeſty of the perſons themſelves; neither were they wont to put down for two Barons above twenty ſhillings by the day, and yet therein had they reſpect to the charges of their ſtayings, labour, and expence; neither were ſuch uncertain expences to be put down, and allowed by the Court, for all and every one ſo choſen and ſent for their Counties, unleſs the perſons themſelves were honeſt, and behaved themſelves well in the *Parliament*.

Touching the Knights of the Shire.

Alſo the *King* was wont to ſend his Writs to all the Sheriffs of *England*, that every one might cauſe to be

be choſen out of his own County, through the Countrey it ſelf, two Knights, fit, honeſt and skilfull, to come to his *Parliament*, after the ſame manner which is ſpoken of the Barons of the Ports; and for their Warrants they ſhould come after the ſame manner.

But for the expences out of one County, for two Knights, there was not wont to be ſet down and allowed above one Mark a day, and now eight ſhillings a day, to wit, for every one of them four ſhillings.

Touching the Citizens.

After the ſame manner Commandement was wont to be given to the Major and Sheriffs of *London*, the Major and Bayliffes to the Major and Citizens of *Yorke*, and of other Cities, that they for the County of their City ſhould chooſe two fit, honeſt and skilful Citizens to come to the *Parliament*, after the ſame manner which is ſpoken of the Barons of the Cinque Ports, and the Knights of the Shires: and the Citizens were wont to be

Peers and equals with the Knights of the Shires in expences, all the while they came, tarried, and returned from the *Parliament*.

Touching the Burgesses.

After the same manner commandment was wont to be given to the Bailiffes and honest men of Burrows and Towns Corporate, that they ought of themselves and by themselves to chuse two fit, honest and skilful Burgesses to come and be present at the Kings *Parliament*, after the same manner as is spoken concerning Citizens: but two Burgesses were not wont to receive by the day for their expence above ten shillings, and sometimes not above a Noble, which was wont to be taxed by the Court, according to the greatness of the Burrows, and the persons sent. Hitherto hath been declared the form, quality, and persons, how long a time before the summons of the *Parliament* ought to be made, and who are those that ought to come by the summons, and who not.

Now secondly, we must shew who they

they are which by reaſon of their Offices ought to come, and are bound to be preſent at the *Parliament*-time without ſummons: whereupon we muſt make the two principal Clerks of the *Parliament* elected by the King and his Councel, and other ſecondary undertakers, of whom, and whoſe Offices we will ſpeak more ſpecially afterwards; and the principal Cryer of *England* with their Under-Cryers; and the principal Porter of *England*; which two Offices were wont to belong to one perſon: Theſe two Offices are bound to be preſent the firſt day.

The Chancellour of *England*, the Treaſurer and Chamberlains, and Barons of the Exchequer, Juſtices, and all the Clerks, and the Kings Knights, together with them that ſue forth Kings Pleas, who are of the Kings Councel, are bound to be preſent the ſecond day, unleſs by order they be excuſed.

Touching the beginning of Parliament.

The Lord the King ſhall ſit in the midſt of the great Bench, and is bound to be preſent in the firſt & laſt

day of *Parliament*. And the Chancellour, Treaſurer, Barons of the Exchequer, and Juſtices were wont to record the defaults made in *Parliament*, according to the order following.

In the firſt day the Burgeſſes and Citizens of all *England* ſhall be called; at which day if they do not come, the Shires ſhall be amerced at an hundred pounds.

In the third day of the *Parliament* the Barons of the Cinque-Ports ſhall be called, and afterwards the Barons of *England*, after them the Earls: whereupon if the Barons of the Cinque-Ports do not come, the Barony from whence they are ſhall be amerced at an hundred Marks, and an Earl at an hundred pounds. And after the ſame manner it muſt be done with thoſe that are equal to Earls and Barons, namely, which have Lands and Revenews to the value of an Earldom, or of one Barony, as before ſaid.

In the fourth day the Proctors of the

the Clergy or Clerks of the Convocation-houſe ſhall be called; if they come not, their Biſhops ſhall be amerced for every Arch-deanery one hundred pounds.

In the firſt day, the Deans, Priors, Abbots, Biſhops, and at length the Archbiſhops ſhall be called; who if they do not come, every Archbiſhop ſhall be fined at an hundred pounds; and every one holding a whole Barony or Abbots, Doctors at an hundred Marks.

In the firſt day Proclamation ought to be made in the Hall, or in the Monaſtery, or in ſome publick place, where the *Parliament* is to be held, and afterwards publickly the City or Town, *That all thoſe who would deliver Petitions or Bills to the* Parliament, *that they may deliver them the firſt day, and ſo other five days next following.*

Touch-

Touching the Preaching at the Parliament.

An Arch-biſhop or Biſhop, or ſome great Clerk diſcreet and eloquent, choſen by the Arch-biſhop in whoſe Province the *Parliament* is held, ought to preach one of the ſaid five dayes of *Parliament*, and in the preſence of the King: and this muſt be done when the *Parliament* for the greater part ſhall be joyned and gathered together. In his Sermon, he ſhall admoniſh and exhort the whole *Parliament*, that they with him humbly pray *God*, and worſhip him for the peace and tranquility of the King and Kingdom, as ſhall be ſaid in the Title following.

Touching the Speech for the Parliament.

After preaching, the Chancellor of *England*, or the Lord chief Juſtice of *England*, or ſome other fit, honeſt, & eloquent Juſtice or Clerk choſen by the Chancellour, or chief Juſtice themſelves, ought, ſtanding, to pronounce

nounce the cauſes of the *Parliament*. Whoſoever they be, whileſt they ſpeak, ſhall ſtand (except the King) ſo that all of the *Parliament* might hear him that ſpeaketh, or if he ſpeak ſomething darkly, or talk in a low voice, let him ſpeak again, and ſpeak louder alſo, or let another ſpeak for him.

Touching the Speech of the King after the Speech before mentioned.

The King (after the Speech beforementioned) ought to require the Clergy and Laity, naming them after their degrees, as Arch-biſhops, Biſhops, and Abbots, &c. Earls, Barons, Knights, Citizens, &c. that they carefully, diligently, and heartily labour throughly to handle, labour, and deliberate in the buſineſſes of the *Parliament*, even as they ſhall underſtand and perceive that this ſhall be firſt according to the will and pleaſure of *God*, and afterwards for his and their honours and commodities.

Touching the Places and ſitting in the Parliament.

Firſt, as I before ſaid, the *King* ſhall ſit in the mid place of the great Bench, and at his right ſide ſhall ſit the Archbiſhop of *Canterbury*, the Biſhops of *London*, and of *Wincheſter*, and after them in order and courſe, the other Biſhops, Abbots and Priors; and on the left ſide the King, the Arch-Biſhop of *York*, the Biſhops of *Durham*, and *Carlile*, and after them, the Earls, Barons, &c. making alwayes a diviſion of place between the foreſaid degrees, and their places, that none ſit but amongſt Peers and his equals; and the Steward of *England* to look to this, unleſs the King will aſſigne ſome other to it. At the Kings foot, at the right ſide ſhall ſit the Chancellor of *England*, and the Chief Juſtice of *England*, and their fellowes, and their Clerks who are of the *Parliament*; and at his foot on the left ſide ſhall ſit the Treaſurer and Chamberlain, and Barons of the Exchequer, the Juſtices of the Bench, and

and their Clerks who are of the *Parliament*.

Touching the principal Clerks of the Parliament.

There are two principal Clerks of the *Parliament*, who ſhall ſit in the midſt of the Juſtices, who ſhalll enroll all the Pleas and buſineſſe of the *Parliament*: and we muſt know theſe two Clerks are not ſubject to every Juſtice, neither is every Juſtice in *England* Juſtice in the *Parliament*, neither have they of themſelves Record in the *Parliament*, unleſſe ſo far forth as new power ſhall be aſſign'd and given to them in the *Parliament* by the King and the Peers of the *Parliament*, and when they are aſſigned with other choice men of the *Parliament* to hear and determine divers Petitions and Complaints offered in *Parliament*; but theſe two Clerks are immediately ſubject to the King and his *Parliament* in common, unleſſe perhaps one Juſtice or two be aſſigned to examine and amend their Inrollments: And when the Peers of the *Parliament*, to hear

hear and examine ſome Petitions by themſelves, then when they ſhall be of one mind and agreeing in rendring their judgments to ſuch Petitions, and the Proceſſe made concerning the ſame, and they ſhall give their judgment in full *Parliament*, ſo that the other two Clerks principally inroll all the Pleas, and all the judgments in the principall Roll of the *Parliament*, and ſhall deliver theſe Rolls to the Treaſurer before the going away of the *Parliament*, referring yet notwithſtanding to the ſame Clerks, one Tranſcript, and Counter-Roll thereof, if they will have it.

Theſe two Clerks, unleſſe they be in other Office under the King, and take of him ſuch fees as whereby they may live honeſtly and well, ſhall receive of the King every day a Mark, for their expences, to be divided between them by equal portions, unleſs they be at the Kings board; otherwiſe half a Mark a day, during all the *Parliament*.

Touch-

Touching the five Clerks of the Parliament.

The King ſhall aſſigne or appoint five skilful Clerks, the firſt whereof ſhall be Miniſter to, and ſerve the Biſhops. The ſecond, the Proctors, of the Clergy, or the Clerks of the Convocation-houſe. The third, the Earls and Barons. The fourth, the Knights of the Shire. The fifth, the Citizens and Burgeſſes: and every one of them, unleſſe he be with the King, and take of him ſuch a fee, or ſuch Revenews that he may thereupon live honeſtly, he may take by the day two ſhillings of the King, unleſs he be of the Kings board; if he be, then to have but twelve pence: which Clerks ſhall write the doubts and anſwers, that they which ſhall be preſent at the *Parliament* make to the King, and at the *Parliament*, and communicate their Counſels unto them, whenſoever they will have them; and when they ſhall be at leiſure, they will ſend the principal Clerks to inroll them.

Con-

De Casibus & Judiciis difficilibus.

Cum dubitat & difficilis casus, pacis vel guerne emergat, &c.

Concerning Cases and Judgments which are hard.

When a Cause of Truce, Doubt, or hard Case of Peace or Warre doth break forth, or otherwise the Case be referred in writing in full *Parliament*, and left it to be handled and disputed there between the Peers or equals; and if it be needful, let it be enjoyned by the King, or on the Kings part, if the King be not present to every degree of Peers or equals; that evry degree it self may go thereto it self, & let that case be delivered to their Clerk in writing, and let them cause the Case to be recited before them, so that they do ordain & consider among themselves how, and after what sort they may better proceed, and more justly in that Case, as they for the person of the King, and their own persons, and the persons also of those whom they represent will answer before *God*; let them bring their answer and advice in writing, and let them proceed in all their Answers, Counsels and Advises heard of either side, (or to and fro (as we said) according to better and more sound counsel and judgment; and when

when at the leaſt the greater part of the *Parliament* doth agree. And if by the diſcord between the King and ſome Noblemen themſelves, either the people may be weakned, or the Countrey may be troubled; ſo that it ſeem to the King his Councel, that it were expedient the buſineſs be handled and amended by conſideration of all the Peers of the Kingdom: Or if through Warre the King or Kingdom might be troubled; or if a hard Caſe do come before the Chancellour of *England*, or a Matter hard to be judged of ſhall be brought before the Juſtices, or ſuch like: or if perhaps in ſuch deliberations, all, or at leaſt the greater part cannot agree, then the Earl that is Steward, the Earl that is Conſtable, and the Earl Marſhall, or two of them, ſhall chuſe five and twenty perſons of all the Peers of the Kingdom, and three Proctors or Clerks of the Convocation-houſe, for the whole Clergy; two Earls and three Barons, five Knights of the Shire, five Citizens and Burgeſſes, who make five and twenty; and thoſe five and twenty may chuſe, if they will,

will, twelve of them, and condeſcend to them; and thoſe twelve chuſe ſix, and condeſcend no fewer, unleſs licence be obtained from the Lord the King. And if the King conſent to three, theſe three may condeſcend to two, and may deſcend to another, and ſo at length his Ordinance ſhall ſtand above the whole *Parliament*, and ſo condeſcend from twenty and five perſons to one onely perſon, unleſſe the greater number will agree and ordain, at the length, one perſon, as is ſaid, ſhall agree for all, who cannot diſagree from himſelf. This being obſerved, and alſo reſerved, the King and his Councel, that they may examine and amend ſuch Ordinance after them, which ſhall be written, if they know how to do it, and will perform it; yet ſo, as they do it there in full *Parliament*, and by the conſent of the *Parliament*, and not contrary to the *Parliament*.

Touching the Order of deliberating buſineſſe in the Parliament.

The buſineſs for which the *Parliament* ought to be deliberated on, accord-

cording to the Calendar of the *Parliament*, and according to the Petitions, and aſſiled, no reſpect being had to any perſon; let him firſt handle his Cauſe that firſt propounded it. In the Calendar of the *Parliament*, there ought to be rehearſed all the buſineſſes of the *Parliament*, and that after this order:

Firſt, concerning Warre (if there be any Warre) and concerning the other buſineſſes, touching the perſons of the King, of the Queen, and of their Children.

Secondly, Concerning the common buſineſſes of the Kingdom, as of making Laws, when there ſhall be lack of Law original, judicial, or executory of particular perſons.

Thirdly, The buſineſs of particular perſons, and that according to the Petitions offered, as is aforeſaid.

Touching the dayes and houres of the Parliament.

The *Parliament* ought not to be held on the *Lords-day*, but on the other

ther days following, that day alwayes excepted, and three other, to wit, of *All Saints*, of *All Soules*, and of the *Nativity* of Saint *John Baptiſt*. It may be held, and ought every day to begin at one of the clock in the afternoon, at which hour the King is to be preſent at the *Parliament*, and all the Peers of the Kingdom. The *Parliament* ought to be held in a publick place, and not in a private or ſecret place. In the Holy-dayes the *Parliament* ought to begin at one of the clock, becauſe of Divine ſervice.

Touching the Porters of the Parliament.

The principal Porter of the *Parliament* ſhall ſtand beneath the great Gate of the Monaſtery, Hall, or other place, where the *Parliament* is held, and muſt keep the door, ſo that none come into the *Parliament* but he which ought to come to the *Parliament*, or ſhall be called for the buſineſs which he followeth in *Parliament*; and it behoveth that the party have knowledge of the perſons which ſhould

ſhould come in, ſo that none at all be denied entrance which is bound to be preſent at the *Parliament*. And the Porter ought, if it be needful, to have more Porters under him.

Touching the Crier of the Parliament.

The Cryer of the *Parliament* ſhall ſtand without the door of the *Parliament*, and the Porter ſhall declare to him their Cryers.

The King was wont to aſſign Sergeants at Arms, to ſtand a great while together without the door of the *Parliament*, to make the door ſo that none ſhould make thruſting or Tumults about the door, by which the *Parliament* might be hindred, upon pain of taking of their bodies, becauſe of right the door of the *Parliament* ought not to be ſhut, but to be kept by Porters, or Kings Sergeants at Arms.

Touch-

Touching the ſtanding of them that ſpeak in the Parliament.

All the Peers of the *Parliament* ſhall ſit, and none ſhall ſtand, but when he ſpeaketh; ſo that every one of the *Parliament* may hear him. None ſhall enter into *Parliament*, nor go out of *Parliament*, but by one door: and whenſoever he ſpeaketh any thing which ought to be deliberated on by the *Parliament*, all they that ſpeak ſhall ſtand; the cauſe is, that he may be heard of the Peers; all which Peers are Judges and Juſtices, &c.

Touching the help and aid appointed for the King.

The King was not wont to require help or aid of his Kingdom, unleſs it were for Warre at hand, or for making his ſons Knights, or for marriages of his daughters; and then he ought to require ſuch help in full *Parliament*, and deliver it in writing to every degree of the Peers of the *Parlia-*

Parliament, and to answer the same in writing. And we must know that for the granting of such helps and aid, it behoveth that all the Peers of the *Parliament* agree. And we must understand that two Knights which come to the *Parliament* for the Shires and County out of which they come, have a greater voice in *Parliament* to grant, then the greatest Earl in *England*: and after the same manner the Proctors for the Clergy, or Clerks of the Convocation-house for one Bishoprick, have a greater voice in *Parliament*, if they all agree, then the Bishop himself. And this is true in all things which ought to be granted or denied to the party, or are to be done therein. And this is manifest, because the King may hold *Parliament* with the Commonalty and Commons of the Kingdom without Bishops, Earls, and Barons, yet so, as they be summoned to the *Parliament*; although no Bishop, Earl or Baron come according to their summons, because in times past, neither was there Bishop, Earl nor Baron, and yet even then Kings kept their *Parliament*: but it is

farre otherwiſe, on the other ſide; for though the Commonalty, to wit, Laity and Clergy were ſummoned to the *Parliament*, (as of right they ought to be) yet for ſome certain cauſes they would not come, as if they would pretend that the King did not govern them as he ought, and would in ſpeciality point out the Articles in which he miſgoverned them, as he ought not; that then that *Parliament* is utterly none at all, though the Archbiſhops, Biſhops, Earls, Barons, and all their Peers and equals were there with the King at it: and therefore all things which are to be affirmed or informed, granted or denied, or to be done by the *Parliament*, muſt be granted by the Commonalty of the *Parliament*, which ſtandeth upon three degrees or ſorts gathered together in *Parliament*, that is to ſay, the Proctors of the Clergy, the Knights of the Shires, the Citizens and Burgeſſes, who indeed repreſent the whole Commonalty of *England*; and next upon the whole Noblemen, becauſe every one of them is at the *Parliament* in his own proper perſon, and none other. *Touch-*

Touching the Abſence of the King in the Parliament.

The *King* is bound by all means poſſible to be preſent at the *Parliament*, unleſs he be detained or let therefrom by bodily ſickneſs, and then he may keep his Chamber, yet ſo as he lie not without the Mannour or Town at the leaſt, where the *Parliament* is held; and then he ought to ſend for twelve perſons of the greateſt and beſt of them, that are ſummoned to the *Parliament*; that is, two Biſhops, two Earls, two Barons, two Knights of the Shire, two Burgeſſes, and two Citizens to look upon his perſon, to teſtifie his eſtate, and in their preſence he ought to make a Commiſſion, and give authority to the Archbiſhop of the place, the Steward of *England*, and Chief Juſtice, that they joyntly and ſeverally ſhould begin the *Parliament*, and continue the ſame in his name, expreſs mention being made in that Commiſſion of the cauſe of his abſence then; which ought to ſuffice and admoniſh the o-

ther Nobles and chief men in the *Parliament*, together with the evident teſtimony of the aforeſaid twelve Peers of theirs; the reaſon is, becauſe there was wont to be a cry or murmur in the *Parliament* for the *Kings* abſence, becauſe his abſence is hurtful and dangerous to the whole Communalty of the *Parliament* and Kingdom, when the King ſhall be abſent from his *Parliament*; neither indeed ought he or may be abſent but onely in the caſe aforeſaid.

Touching the departure, or breaking up of the Parliament.

The *Parliament* ſhould not depart ſo long as any Petition made thereto hangeth undiſcuſſed or undecided, or at the leaſt to which there is not made a determinate anſwer: The Kings Majeſty being deſirous of his grace and favour to give the Subject redreſs of any injury, and not to ſuffer his people to go unſatisfied. None of all the Peers or Equals of the *Parliament* may or ought to depart alone from the *Parliament*, unleſs he have obtain-

obtained (and that in full *Parliament*) leave of the King, and of all his Peers or Equals, ſo to do; and that withall there a remembrance kept in the *Parliament*-roll of ſuch leave and liberty granted. And if any of the Peers or Equals, during the time of the *Parliament*, ſhall be ſick or weak, ſo as he is not able to come to the *Parliament*, then he muſt three days together ſend ſuch as may excuſe him to the *Parliament*: but if they come not, then let there be ſent from the *Parliament* two of his Peers or Equals to go and to certifie of his infirmity. And if there be any ſuſpicion, let theſe two Peers or Equals be ſworn that they ſhall ſpeak the truth concerning the ſame: and if it be found out that he did feign or counterfeit, let him atturney or appoint ſome ſufficient man before them to be preſent at the *Parliament* in his ſtead, if he will; neither can he be further excuſed if he be of ſound memory.

Departing of the Parliament

Ought to be in ſuch a manner: Firſt it ought to be demanded, yea and publickly proclaimed in the *Parliament*, and within the Palace of the *Parliament*, whether there be any that hath delivered a Petition to the *Parliament*, and hath not received anſwer thereto; if there be none ſuch, it is to be ſuppoſed that every one is ſatisfied, or elſe anſwered unto at the leaſt, ſo far forth as by law he may be.

Touching the Tranſcript or Writing out of Records, and Proceſſe made in Parliament.

The Clerk of the *Parliament* ſhall not deny to any man a Tranſcript or Copy of his Proceſs, or Proceſs in *Parliament*, if he do deſire it; and the Clerk ſhall take always for ten lines but one penny, unleſs haply that he that requireth the Tranſcript will give his faith, that he is not able to give it, and in that caſe he ſhall take nothing:

The

The Roll of the *Parliament* ſhould contain in breadth ten inches; and the *Parliament* ſhall be held in what place it ſhall pleaſe the King.

Of the degrees of the Peers or Equals of the Parliament.

The King is the Head, the beginning and the ending, and ſo he hath not any Peer or Equal.

The ſecond degree is of Archbiſhops, Biſhops, Abbots, &c. holding by Baronies.

The third is of Proctors of the Clergy, or Clerks of the Convocation.

The fourth is of Earls, Barons, and others, great and noble perſonages, as aforeſaid.

The fifth degree is of the Knights of the Shire.

The ſixth degree is of Citizens and Burgeſſes; and ſo the whole *Parliament* ſtands of ſix degrees: But we muſt know, that though any of the five degrees beſides the King ſhall be abſent, yet premoniſhed by ſummons, the *Parliament* is taken for full.

The Prerogative of the High Court of Parliament.

Of all the Courts of Judicature in *England*, the Court of Parliament is the chiefeſt and greateſt Councel of Eſtate, called and appointed by the Kings Majeſty, the Lords of the upper Houſe by perſonal Writs of Summons; And for the Commons Houſe, a general Writ is ſent to the Sheriff of every Shire or County, to call together all ſuch freeholders, (which can diſpend forty ſhillings yearly out of their own free lands at leaſt) for the electing two Gentlemen for Knights of the Shire: the like is directed to the Cinque Ports, for choice of their Barons; to each City, Burrow, Town, and Univerſity, for choice of two Burgeſſes, for every of them, to repreſent their ſeveral bodies in Parliament.

The time and place appointed.

This honourable Aſſemblies meeting is noticed by the Kings Majeſty to all his Subjects by Proclamation.

The

The end of calling this great Assembly, is either the disturbance of the Church by Heresie or Schism, danger of the Kingdom by War offensive or defensive, or for the relief of the Subject, disturbed in the Courts of Justice by ill customs, undue execution of the Laws, oppression, &c.

From this High Court lies no appeal, the determination thereof being presumed to be the act of every particular Subject, who is either present personally, or consenting by his Assignee, suffraged by himself.

This honourable Assembly consists of two houses, Upper and Lower. The upper is made up by the Lords Spiritual and Temporal, as Archbishops, Bishops, Dukes, Marquesses, Earls, Viscounts, Barons, no Member of that House being under the degree of a Baron; all which await the Writ of Summons, without which, no place, no vote there; and none may absent themselves after Summons without special proxy from his Majesty, whence he hath power to depute one of the said Members to give his voice for him in absence.

His Majesty, who by his Prerogative Royal hath the sole power, as of calling, so dissolving this honourable Assembly, sits in a Throne in the upper end of the House; on his right hand the Prince of *Wales*, on the left the Duke of *York*. The greatest Officers of the Kingdom, as the Lord Keeper, (who is the Speaker or mouth of the House) Treasurer, Privy-Seal, &c. have places some on the right, some on the left hand of the Throne: the form whereof is recited in the Statute of 31. *Henry* 8.

The Manner of giving voices in the Upper house is thus:

The Lords Spiritual and Temporal in their *Parliamentary* Robes, the youngest Bishop reads Prayers; those being ended, the Clerk of the House readeth the Bills, (being first writ in paper;) which being once read, he that pleaseth may speak either for, or against it.

The Manner of the Lower houſe is in this ſort.

The firſt day each Member is called by his name, every one anſwering for what place he ſerveth; that done, they are willed to chuſe their Speaker, who, (though nominated by the Kings Majeſty,) is to be a Member of that Houſe; their election being made, he is preſented by them to the King ſitting in *Parliament*, where after his Oration or Speech, (the Lord Keeper approving in behalf of the King) he petitions his Majeſtie in behalf of the Houſe: Firſt, for their priviledges from all moleſtations during the time of ſitting. Secondly, that they may enjoy freedom of ſpeech. Thirdly, that they may have power to correct any of their own Members that are offenders. Fourthly, to have favourable acceſs to his Majeſty upon all occaſions. The Speaker, (in behalf of the Houſe of Commons) promiſing regardful reſpect, as befitting loyal and dutiful Subjects.

The

The use of the Parliament

Consists in abrogating old, or making new Lawes, reforming all grievances in the Common-wealth, whether in religion or intemporal affairs, setling succession to the Crown, Grants, Subsidies, *&c.* and in Sum may be called the great Physitian of the Kingdome or Republick.

The Speakers place in the House of Commons.

The Speaker sits in a Chair, placed somewhat high, to be seen and heard the better of all; the Clarks of the House sit before him in a lower seat, who read such Bills as are first propounded in their House, or sent down from the Lords, for in that point each House hath equal authority to propound what they think meet.

All Bills be thrice in three severall dayes read and disputed on, before put to question; and so good order is used in the House, that he that intends to speak to any Bill stands up bare-headed (for no more then one speaks at

at a time) ſpeaking to the Speaker, not one to another, being againſt the rule of the Houſe: and he that ſpeaketh is to ſpeak no more that day to the Bill he hath ſpoken to, to avoid ſpinning needleſly out of time; and their ſpeeches muſt be free from Taunts of their fellow-members that are of contrary opinion.

The Speakers office is, when a Bill is read, as briefly as he may to declare the effect thereof to the Houſe; and to Bils firſt agreed on by the Lords, and ſent to the Commons for aſſent: if they do aſſent, then are they return'd ſubſcib'd thus, *Les Communs ont aſſentus*: So likewiſe if the Lords agree to what is ſent to them from the Houſe of Commons, they ſubſcribe, *Les Seigneurs ont aſſentus*: If the two Houſes cannot agree (every Bill being thrice read in each Houſe) then ſomtimes the Lords, ſomtimes the Cõmons, require a meeting of ſome of each houſe, whereby information may be had of each others mind, for the preſervation of a good correſpondency between them, after which meeting for the moſt part, (though not alwaies) either part agrees to the Bill in queſtion. The

The assent or dissent of the Upper House, is each man severally by himself, and then for so many as he hath by proxy, they saying onely, content, or not content, and by the major part it is agreed to, or dashed. But in the Lower House no Member can give his voice to another by proxy; the major part being present onely maketh the assent or dissent. After a Bill is twice read there, and engrossed, (being disputed on enough, as conceived) the Speaker asketh if they will go to question; and if agreed to, holding the Bill up in his hand, saith, *As many as will have this Bill pass concerning such a matter, say Yea; and those that are against it, No*: and if it be a doubt which cry is bigger, the House is divided, the one part that agrees not to the Bill being bid to sit still; those that do, to go down with the Bill; so plurality of voices allows, or dashes. But no Bill is an Act of *Parliament*, Ordinance or Edict of Law, though both the Houses unanimously agree in it, till it hath the Royal Assent.

Touch-

Touching the Royal Aſſent.

When Bills are paſſed by both the Houſes, they ought to have for approbation the Royal Aſſent, which uſually is deferred till the laſt day of the Seſſions, but may be given at any time during the *Parliament*: touching which, it hath been a queſtion much debated, whether the Royal Aſſent given to any one Bill doth not *ipſo facto* conclude that preſent Seſſion. The queſtion is of great conſequence, for if thereby the Seſſion be at an end, then ought every other Bill, although paſſed both the Houſes, to be read again three times in either Houſe, and to have the ſame proceeding as it had at firſt, as if nothing had been formerly done therein; ſo muſt it be done of all other Acts of the Houſe. But the firſt Seſſion of the firſt *Parliament* of King *James*, the *Houſe* being then deſirous to have a Bill paſſed forthwith by the Royal Aſſent, which ſhould be ſecurity to the Warden of the Fleet, touching the delivery of Sir *Thomas Sherly* out of execution,

(for

(for it was then queſtionable whether he was ſubject to an action of eſcape) did agree that the giving of the Royal aſſent to one Bill or more did not diſſolve the Seſſions without ſome ſpecial Declaration of his Majeſties pleaſure to that purpoſe, 18. *Aprill* 1604. And likewiſe in the Journal *Anno* 1. & 2. *Phil* & *Mariæ*. 21. *Novemb.* that the King and Queen came on purpoſe into the Parliament-Houſe to give their Aſſent to Cardinal *Pools* Bill; and upon queſtion made, it was then reſolved by the whole Houſe, that the Seſſion was not thereby concluded, but that they might proceed in their buſineſſe notwithſtanding the Royall Aſſent given.

At the giving of the Royal Aſſent, it is not requiſite the King ſhould be preſent in perſon, for by the expreſſe word of the Statute of 33. *Henry* the 8 *cap.* 21. that the Kings Royal Aſſent by his Letters Patents, under his great Seal, ſigned by his hand, and declared and notified in his abſence to the Lords Spiritual and Temporal, and to the Commons aſſembled in Parliament, is, and ever was of as good

ſtrength

ſtrength and force, as if the King had been there in perſon perſonally preſent, and had aſſented openly and publikely to the ſame; according to which Statute the Royal aſſent was given by Commiſſion *Anno* 38. *H.*8. unto the Bill for the attainder of the Duke of *Norfolk*.

The Manner of giving the Royall Aſſent.

The Royal Aſſent is given in this ſort; after ſome ſolemnities ended, the Clark of the Crown readeth the Titles of the Bills in ſuch order as they are in conſequence: as the Title of every Bill is read, the Clark of the Parliament pronounceth the Royall Aſſent, according to his inſtructions given him by his Majeſty in that behalf: if it be a publick Bill to which the King aſſenteth, he anſwereth *Le Roy le voet*; If a private Bill be allowed by the King, the anſwer is, *Soit fait come il eſt deſire*: If a publique Bill which the King forbeareth to allow, *Le Roy ſe aviſera*: To the Subſidy-Bill, *Le Roy remercieſes Loyaulx*, accepts his ſubjects benevolence; *& ainſi le veult*. To

To the general Pardon.

Les Prelates Seigneurs & Communs en ceſt preſent Parliament aſſemblées en nom de touts vous autres ſubjects remercient tres humblement voſtre Majeſtie, & prient Dieu vous doner en ſuite bon vie & longe.

The uſual Form of Summons for the PARLIAMENT.

The Form of the Kings Majeſties Writ to the Peers to aſſemble in Parliament.

CAROLUS *&c. Chariſſimo conſanguineo ſuo E. Comit. D. Salut. Quia de adviſamento & aſſenſu Conſilii noſtri, pro quibuſdam arduis urgentibus negotiis nos ſtatum & defenſionem regni noſtri Angliæ & Eccleſiæ Anglicanæ concernent. quoddam Parliamentum noſtrum apud Civitatem noſtram* Weſt-

Weſtmonaſterium *tertio die* Novembris *prox. futur. teneri ordinavimus, & ibid. vobiſcum ac cum Prælat. magnatibus & proceribus dict. Regni noſtri colloquium habere, tractare, vobis ſub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandamus, quod conſiderat. dictorum negotiorum arduitate & periculis imminentibus, ceſſante excuſatione quacunque, dict. die & loco perſonaliter interſitis nobiſcum, ac cum Prælatis, magnatibus & proceribus prædictis, ſuper dictis negotiis tractatur. veſtrumq; conſilium impenſur. & hoc ſicut Nos & honorem Noſtram, ac ſalvationem & defenſionem Regni & Eccleſiæ prædictorum expeditionemq; dictorum negotiorum, diligitis, nullatenus omittatis. Teſte me apud* Weſtmonaſterium *decim octavo die* Septembris, *Anno Regni noſtri* 16.

The

The usual form of summons for the Parliament for the Commonalty, is not speciall, but a general Writ is directed to the Sheriff of every County or shire in *England* and *Wales*, in this form.

Rex vice. N. Salutem. Quia de advisamento & assensu Consilii nostri quibusdam arduis & urgentibus negotiis nos Statum & defensionem Regni nostri Angliæ, & Eccles. Anglicanæ concernent. quoddam Parliamentum nostrum apud Civitatem nostram West. 17 die Martij. prox. futuro teneri ordinavimus & ibidem cum Prælatis, magnatibus & proceribus dicti regni nostri colloquium habere & tractare, tibi præcipimus firmiter injungentes quod facta proclamatione in prox. com. tuo post receptionem hujus brevis nostri tenendum die & loco prædicto, duos Milites gladiis cinctos, magis idoneos & discretos cum prædict. &c. Et electionem illam in pleno com. tuo factam distinctè & apertè, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nobis in Cancellariam nostram ad dictum diem & locum certifices indilate. Teste meipso, &c. vide Statut. 23. H. 6. c. 15.

The

The King to the Vicount or Sheriff greeting.

Whereas by the advice & assent of our Councel, for certain ardnous and urgent affairs concerning us, the State & defence of our Kingdom of England, *and the* Anglican *Church, we have ordaind a certain Parlement of ours to be held at our City of the day of next ensuing, and there to have conference, and to treat with the Prelats, Great men, and Peers of our said Kingdom; We command and strictly enjoyn you, that making Proclamation at the next County Court after the receit of this our Writ, to be holden the day and place aforesaid; you cause 2 Knights girt with swords, the most fit and discreet of the County aforesaid, and of every City of that County, 2 Citizens; of every Borough 2 Burgesses, of the discreeter, and most sufficient, to be freely and indifferently chosen by them who shall be present at such Proclamation, according to the tenor of the Statutes in that case made and provided; And the names of the said Knights, Citizens and Burgesses so chosen, to be inserted in certain Indentures to be then made between you and those that shall be present at such Election, whether the parties so Elected be*

preſent, or abſent, and ſhall make them to come at the ſaid day and place, ſo that the ſaid Knights for themſelves, and for the County aforeſaid, and the Citizens, and the Burgeſſes for themſelves, and the Communalty of the ſaid Cities and Burrows, may have ſeverally from them full and ſufficient power to do, and to conſent *to thoſe things which then by the favour of God ſhall there happen to be ordain'd by the Common-Councel of our ſaid Kingdom concerning the buſineſs aforeſaid, ſo that the buſineſs may not by any means remain undone for want of ſuch power, or by reaſon of the improvident election of the aforeſaid Knights, Citizens and Burgeſſes; But we will not in any caſe that* you *or* any other Sheriff of our ſaid Kingdom ſhall be elected: *And at the day and place aforeſaid, the ſaid Election being made in a full County Court, you ſhall certifie without delay to us in our Chancery under your Seal, and the Seals of them which ſhall be preſent at that Election, ſending back unto us the other part of the Indenture aforeſaid affiled to theſe preſents together with the Writ. Witneſs our ſelf at* Weſtminſter.

And

And concerning thoſe of *Wales* to be ſummoned to the Parliament, reade the Statute thereof 27. *Hen.* 8. *cap.* 26. Intituled, *An Act for Laws and Juſtice to be miniſtred in Wales, in like form as it is in this Realm*; and alſo that other Statute made 35. *Hen.* 8. *cap.* 11. Intituled, *An Act for the due payment of Fees and wages of Knights and Burgeſſes of the Parliament, in Wales.* And thereof ſee in *Plowdens Comment.* 120. Sir *Richard Bulkleys* Caſe, and in *Dyer* 13.

And concerning thoſe of the County Palatine of *Cheſter*, and of the City of *Cheſter* in this behalf, ſee the Statute made 34. *Hen.* 8. *cap.* 3.

At every County after the delivery of the Parliament-writ to the Sheriffs, Proclamation ſhall be made in the full County of the day and place of the Parliament, and that all men ſhall attend for the Election of the Knights for the ſame County for the Parliament. The which Knights muſt be reſident within the ſame County whereof they are to be choſen, the day of the writ of ſummons of the Parliament, whereof every one ought to have 40 s.

of

of Free-hold within the ſaid County beyond all charges; And ſuch who have the greateſt number of the ſaid Electors ſhall be returned Knights for the ſame County. See 7. *Hen.* 4. *cap.* 12. 1. *Hen.* 6. *cap.* 1. 8. *Hen.* 6. *cap.* 13. and 10. *Hen.* 6. *cap.* 7.

The Sheriffe may examine every one of the ſaid Electors upon the ſaid Evangeliſts how much he may diſpend by year, if he doubt of the value thereof, 8. *Hen.* 6. *cap.* 15.

The ſaid Election ſhall be made in the full County between the houres of 8. and 9. before noone. 23. *Hen.* 6. *cap.* 15.

The ſaid Knights ſhall be returned into the Chancery by Indenture, ſeal'd between the Sheriff and the ſaid Electors, 8. *H.* 6. *c.* 7. 7. *H.* 4. *c.* 1. 23. *H.* 6. *c.* 6. *ut patet per breve ſuprà.*

Every Sheriff who doth not make a true return of ſuch Election of knights to come to the Parliament, according to the Statute in that behalf made, that is to ſay, the Statute 8. *H.* 6. *c.* 7. ſhall forfeit 100l. to the King, and

100l.

100l. to the knight ſo choſen, who ſhall commence his Action within three moneths after the Parliament commenced. And if he ſo do not, and proſecute his ſuit in effect and without fraud, any other man who will may have the ſaid ſuit, for the ſaid 100l. as the Knight had, and coſts of ſuit alſo ſhall be awarded to the ſaid K. or any other who will ſue in his behalf, 23. *Hen.* 6. *Cap.* 15.

No Sheriffe ſhall be choſen for a Knight of the *Parliament* nor for a Burgeſſe: ſee the Book of Entries, 411. And at a *Parliament*, holden 38. *Henry* 8. It was admitted and accepted, that if a Burgeſſe of a *Parliament* be a made Mayor of a Town, or have Judicial Jurisdiction, or another is ſick, That theſe are Cauſes ſufficient to chooſe others. And ſo was done by the Kings Writ out of the Chancery, comprehending this matter which was in *Communi Domo Parliamenti*, 7. and 38. *Henry* 8.

In every VVrit of Parliament directed to the Sheriffe this Clauſe ſhall be inſerted; *Electionem tuam in pleno Com. tuo factam diſtinctè & apertè ſub Sigillo tuo & Sigillis eorum qui Electioni illi interfuerunt, nos in Cancellariam noſtram ad diem & locum in brevi content. certifices indilatè, Henr. 4. ca. 15.*

The Sheriffe after the receit of the VVrit of Election, *&c.* ſhall deliver without fraud a ſufficient Precept under the Seale of every Major, and Bayliffe, or Bayliffes, where no Major is, of the City and Burrough within his County, reciting in his Precept the VVrit of Parliament; Commanding them by the ſaid Precept, if it be a City, to chooſe Citizens for the ſame City by the Citizens; and if it be a Burrough, then Burgeſſes, by Burgeſſes of the ſame to come to the Parliament; And that the ſaid Major, or Bayliffe, or Bayliffes, where no Major is, ſhall return lawfully the ſaid Precept to the Sheriffe,

Sheriffes, and thoſe who made the Elections, and of the Names of the ſaid Citizens, and Burgeſſes, by them ſo choſen, 23. *Henry* 6. *Cap.* 15.

The Sheriffe ſhall make a good return of his Writ, and of every return of the Major, and Bayliffe, or Bayliffes, where no Major is, to him made. And if the Sheriffe doe contrary to this Statute made for the Election of Knights, Citizens, and Burgeſſes to come to the *Parliament*, he ſhall incurre the pain of two hundered pounds to the King, and ſhall be impriſoned for one whole year, without Bayle or Mainprize. And the Knights for the County returned, contrary to the ſaid Ordinances, ſhall loſe their Wages by the Statute, 8. *Henry* 6. *Cap.* 7. and the Sheriffe ſhall loſe one hundred pounds, to every Knight, Citizen and Burgeſſe, choſen in his County, to come to the *Parliament*, and not duely returned; or to any other who will ſue in his default by Action of Debt,

with Coſts Expended in that Caſe: In which ſuite the Defendant ſhall not wage Law, nor be Eſſoyned, *Anno* 23. *Henry* 6. *Cap.* 15.

If the Major and Bayliffe, or Bayliffe, or Bayliffes where no Major is, do return others then thoſe who be choſen by the Citizens and Burgeſſes of the Cities and Boroughs where ſuch Election ſhall be made, he ſhall forfeit to the King fourty pounds, and ſo much to the Citizen or Burgeſſe choſen to come to the *Parliament*, and not duely returned by the Major or Bayliffe, or Bayliffes where no Major is, or to any other perſon who in default of ſuch Citizen or Burgeſſe ſo choſen, will ſue for it by Action of Debt, with Coſts expended. And they ſhall have a Writ of Debt for the ſaid fourty pounds, in which the Defendant ſhall not wage his Law, nor ſhall be Eſſoyned, 23. *Henr.* 6. *Cap.* 15.

Every

Every Knight, Citizen, or Burgeſſe, choſen and not returned, ſhall Commence his Action within three moneths next after the Commenceing of the ſaid *Parliament*. In which he muſt proceed effectually without fraud; And if he ſo doe not, any other who will ſue for it ſhall have the ſaid Action for the ſaid Forfeiture, and Coſts in the ſame expended: in which the Defendant ſhall not wage Law, nor ſhall be Eſſoyned, *Anno* 23. *Hen.* 6. *cap.* 15.

If any Knight, Citizen, or Burgeſſe, that ſhall be returned by the Sheriffe to come to the *Parliament*, be after ſuch Return put out, and another put in his place, he that is in his place ſo put out, if he take upon him to be a Knight, Citizen, or Burgeſſe, ſhall forfeit to the King one hundred pounds, and ſo much to the Knight, Citizen, or Burgeſſe, returned by the Sheriffe, and ſo afterwards put out; and the ſame Knight, Citizen, or Burgeſſe ſo put out ſhall have an Action of Debt againſt him ſo

put in his place, his Executors and Administrators, and shall Commence his Action within three Moneths after the beginning of the *Parliament*: and if he sue not as before, any other who will, shall have the said suit; in which the Defendant shall not wage his Law, nor shall be Essoyned; so that such Knights of the *Parliament* chosen, be a Knight, or such Esquire or Gentleman of the same County, who may be a Knight; and none to be such a Knight, who standeth in the Degree of a Yeoman, *Anno* 23. *Hen.* 6. *cap.* 15.

All Persons and Commonalties who shall be summoned to the *Parliament*, shall come as it hath been accustomed of the ancient time: and he that commeth not, having no reasonable excuse, shall be amerced and otherwise punished, as of ancient time hath been used, 5. *R.* 2. *Statut.* 2. *cap.* 4.

And

And it appeareth to be true which *Forteſcue* ſaith in his 18. *Cap. Fol.* 40. That Acts of *Parliament* and Statutes of *England* are not made onely by the Princes pleaſure, but alſo by the conſent of the whole Realme: So that of neceſſity they muſt procure the VVeal of the whole Realme, and in no wiſe tend to their hinderance; and it cannot be otherwiſe thought, but that they are repleniſhed with much VVit and VViſedome, ſeeing they are not ordained by the Advice of one Man onely, or of one hundered wiſe Counſellours, but of more then three hundered choſen Men; which agreeth with the ancient number of Ancient Senators of *Rome*.

No Baron, Knight, Citizen or Burgeſſe, who ſhall be choſen to come to the *Parliament*, ſhall depart untill that *Parliament* be ended or prorogued, if he have not licenſe of the Speaker, and of the Commons aſſembled in that *Parliament*; which licenſe ſhall be entred in the

Book of the Clarke of the Parliament appointed for the Commons Houſe, upon paine of loſing their wages, whereof all Counties and Burroughs ſhall be diſcharge, 6. *Hen.* 8. *Cap.* 16.

Concerning the due leavying of Knights Fees and Wages for the Attendance at the Parliament, See the Statute made 23. *Henr.* 6. *Cap.* 11.

Knights and Burgeſſes for the Parliament muſt take the *Oath of Allegiance*, and ſo ſhall Citizens, and Barons for the five Ports for the Parliament, before they doe enter into the Parliament Houſe, *Anno* 5. *Eliz.* Cap. 1. and they muſt alſo take the *Oath of Supremacy*, made 7. *Jacobi*, *Cap.* 6. Which two Oathes ſhall be taken before the Lord Steward for the Time being, or his Deputie, or Deputies.

Memorandum,

Memorandum, in the Statute made, *Anno* 25. *Henr.* 8. *Cap.* 19. Entituled, An Act concerning the ſubmiſſion of the Clergie to the Kings Majeſte, is contained, That the Convocation is, and alwayes hath been and ought to be Aſſembled by the Kings Writ, The forme whereof is thus ſet downe by Doctor *Cowell* in his Interpreter *Verbo Proclam.* Firſt, the King directeth his Writ to the Arch-Biſhop of each Province for the Summoning of all Biſhops, Deanes, Archdeacons, Cathedrall and Collegiate Churches, and generally all the Clergy of his Province, after their beſt Diſcretions and Judgements; aſſigning to them the time and place in the ſaid Writ: Then the Arch-Biſhops proceed in their accuſtomed courſe. One Example may ſhew both; The Arch-Biſhop of *Canterbury*, upon his VVrit of Summons received, directeth his Letters to the Biſhop of *London* as his Deane Provinciall: Firſt, Citing him peremptorily, and then wil-

ling him to cite in like manner all the Biſhops, Deanes, Arch-Deacons, Cathedrall and Collegiate Churches, and generally, all the Clergie of his Province, to the place, and againſt the day prefixed in the VVrit; but directeth withall, That one Proctor ſent from every Cathedrall, or Collegiate Church, and two for the body of the inferiour Clergie of each Dioceſſe, may ſuffice: and by Vertue of theſe Letters, authentically ſealed the ſaid Biſhop of *LONDON*, ſendeth the like Letters ſeverally to the Biſhops of every Dioceſſe of the Province, citing them in like manner, and commandeth them not onely to appeare, but alſo to admoniſh the ſaid Deanes and Arch-Deacons perſonally to appeare; and the Cathedrall and Collegiate Churches alſo of the common Clergie of the Dioceſſe, to ſend their Proctours at the day appointed in the VVrit: And alſo will them to certifie to the Arch-Biſhops the names of all and every

ry one ſo ſummoned by them in a Schedule annexed to their Letters Certificatory. The Biſhops proceede accordingly, and the Cathedrall and Collegiate Churches: As alſo the Clergie make choice of their Proctours; which done and certified to the Biſhop, hee returneth all anſwerable to his charge, (*Cave Lector*) for the Clergie of the Convocation-Houſe are no Part or Member of the *Parliament*, as you may ſee reſolved by the Lord *Richard*, Lord *Windſor*, and others, in the beginning of the ſixth Examination of Maſter *Philpot*, in the beginning of the Reigne of Queene *Mary*, in Maſter *Foxes* Booke of Martyres, *Folio* 1639. contrary to the Opinion of Doctour *Cowell*, *ubi ſuprà*. Nevertheleſſe, it is Enacted by the Statute, 8. *Henry* 6. *Capite* 1. That all the Clergie called to the Convocation-Houſe, by the Kings VVrit, and their Servants and Familiars ſhall have and fully

me-

uſe every ſuch Liberty and Defence, in comming, abiding, and going, as the Great Men, and Commonalty of the Land (to be called to the Parliament of the King) ſhall have.

And becauſe mention is here made of the Priviledges appertaining to thoſe of the Parliament-Houſe, take here a word or two thereof.

The VVords of the Statute made the 11. *Henry*, 6. *Cap.* 11. are as followeth; The King willing to provide for eaſe and tranquillitie of thoſe that come to his Parliament, hath Ordained and Eſtabliſhed, That if any Aſſault or Affray to be made upon any Lord Spirituall, or Temporall, Knight of the Shire, Citizen, or Burgeſſe, comming to the Parliament, or the Counſell of our Soveraigne Lord the King, that then Proclamation ſhall be made in the moſt open place of the City or Town, where the affray

was

was ſo made, by three ſeveral dayes, That the party that made ſuch affray and aſſault yield himſelf before the King and his Bench, within a quarter of a year after the Proclamation ſo made, if it be in the time of the Term, or otherwiſe in the next day in the time of the Term following the ſaid quarter. And if he ſo do not, that he be attainted of the deed, and pay to the party grieved his double dammages, to be taxed at the diſcretion of the Juſtices of the ſame Bench for the time being, or by inqueſt if it be needful; and make Fine and Ranſom at the Kings will, and if he come and be found guilty by Inqueſt, examination, or otherwiſe, of ſuch affray, or aſſault, then he ſhall pay unto the party grieved thereby his double dammages found by the Inqueſt, or to be taxed by the diſcretion of the Juſtices, and make Fine and Ranſome at the will and pleaſure of our Soveraign Lord the King.

Every

Every Knight, Citizen, Burgeſs, Baron of the Five Ports, or others, called in the Parliament of the King, ſhall have priviledge of the Parliament during the Seſſions of Parliament, ſo that he that doth arreſt any of them during that time, ſhall be impriſoned in the Tower by the Nether Houſe of which he is, and ſhall be put to his Fine, and the Keeper alſo if he will not deliver him when the Serjeant at Arms doth come for him by the commandment of the Houſe whereof he is: See *Dyer* 60.

The ſervants tending upon their Maſters during Parliament, who are neceſſary, and alſo ſuch Officers as be attending upon the Parliament, as the Serjeant at Arms, the Porter of the door, Clerks and ſuch like; and in the ſame manner of their Chattels and goods neceſſary, ſo that they ſhall not be arreſted and taken by any Officer, if it be not in caſe of Felony or Treaſon: in the ſame manner, as the Judges and Miniſters of other Courts ſhall have for their ſervants goods and chattels neceſſary. See *Cromptons Courts, fol.* 11.

But

But the Parliament doth not give priviledge *Tempore vacationis, ſed ſedente curia.* See *Brooks Title Priviledge* 56. It appeareth that in the Parliament 31. *Hen.*6. in the vacation, the Parliament being continued by Prorogation, *Thomas Thorpe* the Speaker was condemned in a thouſand Marks damages by an Action of Treſpaſs brought againſt him by the Duke of *York*, and was committed to priſon in execution for the ſame; and after when the Parliament was re-aſſembled, the Commons made ſuit to the King and Lords to have *Thorpe* their Speaker delivered for the good exploit of the Parliament: whereupon the Dukes Counſel declared the whole cauſe at large; whereupon the Lords demanded the opinion of the Judges, whether in that caſe *Thorpe* ought to be delivered out of priſon by priviledge of Parliament; the Judges made this anſwer, that they ought not to determine the priviledge of that High Court of Parliament: But for Declarations of proceedings in Law-Courts in the caſe where writs of *Superſedeas* for the priviledge of the

the Parliament to be brought unto them; they answer, That if any person that is a Member of the Parliament be arrested in such case as it be not for Treason or Felony, or for surety of the Peace, or for condemnation had before the Parliament; it is used that such persons be released, and may make Atturney, so as they may have their freedom and liberty freely to attend that Parliament: Hereupon it was concluded, that *Thorpe* should still remain in prison according to the Law, notwithstanding the priviledge of Parliament, and that he was the Speaker; which resolution was declared to the Commons by *Walter Moile* one of the Kings Serjeants at Law, and then the Commons were commanded in the Kings name by the Bishop of *Lincoln*, in the absence of the Archbishop of *Canterbury* then Chancellor, to chuse another Speaker.

It hath been much doubted, whether one taken in Execution during the Parliament may be set at liberty by Writ of Parliament, as is to be seen in

in the first of *Eliz.* 4. *fol.* 8. *a Dyer* 60. But at this day the Law is explained in that case by the Statute made 1 *Jacob. Cap.* 19. Intituled, *An Act for new execution to be sued against any who shall hereafter be delivered out of prison by priviledge of Parliament, and for discharge of them out of whose custody such prisoners shall be delivered.*

Concerning the upper House of Parliament; first it is observed, that thither come all Lords of the Parliament as well Spiritual as Temporal, and they are summoned by the Kings Writ also, but *Separatim*, and not by a generall Writ to the Sheriff of the County, as the Commons are summoned, who are of the Lower House of the Parliament; the form of which Writ is as followeth:

Carolus, &c. Charissimo consanguineo suo Comiti Oxford. Quia de advisamento & assensu Consilii nostri, pro quibus. arduis & urgentibus negotiis nos, stat. & defensionem regni nostri & Eccles. Anglic. concernent. quoddam Parliament

liament. noſtrum apud Civitat. noſtram Weſtmonaſterium 12. *die* Martii, *prox. futur. teneri ordinavimus, & ibidem vobiſcum ac cum Prælatis, magnatibus & proceribus dicti Regni noſtri colloquium habere & tractare, vobis ſub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandamus, quòd conſiderat. dictorum negotiorum arduorum & periculis imminentibus, ceſſante excuſatione quacunque dicto die & loco perſonáliter interſitis nobiſcum, ac cum Prælatis, magnatibus & proceribus ſupra dictis negotiis tractare, veſtrumq; conſilium impenſur. Et hoc ſicut Nos & honorem noſtrum, & rempublicam, & ſalvationem & defenſionem Regni & Eccleſiæ prædict. expeditionemq; negotiorum dictorum diligitis, nullatenus omittatis. Teſte me ipſo apud* Weſtm. 18. *die* Januarii *Anno Regni noſtri, &c.*

At the firſt day appointed by the King for the Parliament, uſually the King in perſon doth ride thither, as it were to open the door of their authority, attended by all the Lords Spiritual and Temporal in their Parliament-Robes;

Robes; but if the King be let *per agritudinem*, or by other causes, his Majesty may command the adjornment of the Parliament to be held at some other day at his pleasure; as was done at the first day of the Parliament, holden the first year of the late Queen *Eliz.* as appeareth in *Dyer, Fol.* 20. 3. *a.* which Parliament was prorogued by Writ Patent under their entire great Seal and Signet, with the hand of the Queen; by which Book the printed Book of the Statutes may be corrected.

And the King may under his great Seal assign two or three of the Lords of the Parliament to supply his place in Parliament, if he be sick, or will not come for any other cause, *ut factum fuit Anno* 31. *Eliz.* At which time the Archbishop of *Canterbury*, The Lord Treasurer of *England*, and the Earl of *Derby*, were Commissioners under the great Seal appointed and assigned to represent her Majesties person in Parliament.

And they do sit one space lower from the Cloth of Estate in the *Parliament*-House. See *Cromp. Courts, fo.* 12. *a.*

By

By the Statute made *Anno* 23. *H.*8. *Cap.*21. it is thus defined: The Assent of the King by his Letters Patents under the great Seal of *England*, and signed with his hand, and notified in his absence to the Lords of the Parliament and Commons assembled in the Higher House, is and ever was of as good force and strength as if the person of the King had been there present, and had assented openly and publickly to the same. And such Royal assent as is aforesaid shall be taken for good and effectual to every intent without any ambiguity of Custome or usage to the contrary notwithstanding.

In this Court is attending the Lord Chancellor of *England*, or the Lord Keeper of the great Seal, or some other sage man as the King shall chuse; by whom the King doth shew his mind to the Lords. And he doth put them in remembrance of those things which are to be treated there before the Lords, who if he be no Baron, or Peer of the Realm, sitteth near the King behind the cloth of Estate,

ſtate, and is as the Speaker of the Upper Houſe of Parliament.

In the 31. year of *Hen.* 8. *Cap.* 10. Intituled, An Act concerning placing of the Lords in the Parliament Chamber and other aſſemblies & conferences of Counſel, it is Enacted as followeth: *Foraſmuch as in all great Councils and Congregations of men having ſundry degrees in the Commonwealth, it is very requiſite and convenient that an order be had and taken for the placing and ſetting of ſuch perſons as are bound to reſort to the ſame; to the intent that they knowing their places, may uſe the ſame without diſpleaſure or let of the Council: Wherefore the Kings moſt Royal Majeſty, although it appertaineth to his Prerogative Royal to give ſuch honor, places and reputation to his Counſellors and other his ſubjects as ſhall ſeem beſt to his moſt excellent Majeſty, He is nevertheleſs pleaſed and contented for an order to be had and taken in this his moſt high Court of Parliament, that it ſhall be Enacted by authority of the ſame, in manner as hereafter followeth:*

Firſt,

First, It is Enacted by authority aforesaid, that no person or persons, of what estate, degree or condition soever he or they be of (except onely the Kings children) shall at any time hereafter attempt or presume to sit, and have place at any side of the cloth of State, in the Parliamen-Chamber, neither of th'one of the Kings Highness, nor on the other, whether the Kings Majesty be there personally present, or absent. And for as much as the Kings Majesty is justly and lawfully supreme head on earth of the Church of England, *under God; and for the exercise of the said most royal dignity and Office, hath made* Thomas *Lord* Cromwel, *and Lord privie Seal, his Vicegerent, for good and due ministration of Justice to be had and used in all causes and cases touching the Ecclesiastical Jurisdiction, and for the godly reformation and redress of all Errors, Heresies, and Abuses in the same Church; It is therefore enacted by authority aforesaid, That the said Lord* Cromwel, *having the said Office of Vicegerent, and all other persons who shall hereafter have the said Office of the grant of the Kings Highness, his*

Heirs

Heirs and Succeſſors, ſhall ſit and be placed as well in this preſent Parliament, as in all Parliaments whatſoever hereafter to be holden, on the right ſide of the Parliament Chamber, and on the ſame form that the Archbiſhop of Canterbury *ſitteth upon, and above the ſaid Archbiſhop and his Succeſſors; and ſhall have place in every Parliament to aſſent or diſſent, as other the Lords of the Parliament.*

And it is enacted, that next to the ſaid Vicegerent ſhall ſit the Archbiſhops of Canterbury *and* York; *and then next them on the ſame form & ſide the Biſhop of* London, *and next to him on the ſame form and ſide the Biſhop of* Dureſme, *and next to him, on the ſame form and ſide, the Biſhop of* Wincheſter; *and then all the other Biſhops of both Provinces of* Canterbury *and* York *ſhall ſit and be placed on the ſame ſide after their ancienties, as it hath been accuſtomed.*

And

And forasmuch as such persons as now have, or hereafter shall happen to have other great Offices of the Realm, that is to say, the Office of the Lord Chancellor, Lord Treasurer, Lord President of the Kings Councel, the Lord Privie Seal, the Great Chamberlain of England, the Marshal of England, the Lord Admiral, the Grand Master or Lord Steward of the Kings most honourable Houshold, the Kings Chamberlain, and the Kings Secretary, have not heretofore been appointed and ordered for the placing and sittting in the Kings most High Court of Parliament, by reason of their Offices; It is therefore now ordered, and Enacted by authority aforesaid, that the said Lord Chancellor, Lord Treasurer, the President of the Kings Counsel, and the Lord Privie Seal, being of the degrees of Barons, or above, shall sit and be placed as well in this present Parliament, as in all other Parliaments hereafter to be holden, in the left hand of the Parliament Chamber, on the higher part of the form on the same side, above all Dukes (except onely such as shall be the

the Kings Sonne, the Kings Brother, the the Kings Uncle, the Kings Nephew, or the Kings Brother or Sisters sons.

And it is also ordained and enacted by Authority aforesaid, That the great Chamberlain, the Constable, the Marshall, the Lord Admirall, the Grand Master or Lord Steward, and the Kings Chamberlain, shall sit and be placed after the Lord Privy Seal, in manner and form following, That is to say, every one of them shall sit and be placed above all other personages being of the same Estate or Degree that they shall happen to be of; That is to say, the Great Chamberlain first, the Constable second, the Marshall third, the Lord Admirall fourth, the Grand Master or Lord Steward fifth, and the Kings Chamberlain the sixth.

And it is also enacted by Authority aforesaid, That the Kings chiefe Secretary, being of the Degree of a Baron of the Parliament, shall sit and be placed above and before all other Barons, not having any of the Offices aforeremembred; and if he be a Bishop, that then

then he ſhall ſit and be placed above all other Biſhops, not having any of the Offices above remembred.

And it is alſo ordained and enacted by authority aforeſaid, That all Dukes not afore mentioned, Marqueſſes, Earls, Viſcounts, and Barons, not having any of the Offices aforeſaid, ſhall ſit and be placed after their ancientry, as it hath been accuſtomed.

And it is further enacted, that if any perſon or perſons which at any time hereafter ſhall happen to have any of the Offices aforeſaid, of Lord Chancellor, Lord Treaſurer, Lord Preſident of the Kings Counſel, Lord Privy Seal, or chief Secretary, ſhall be under the Degree of a Baron of the Parliament, by reaſon whereof they have no intereſt to give any aſſent or diſſent in the ſaid houſe: That then in every ſuch caſe, ſuch of them as ſhall happen to be under the ſaid degree of a Baron, ſhall ſit and be placed at the uppermoſt part of the Sacks, in the midſt of the Parliament-Chamber, either there to ſit upon one form, or upon the uppermoſt ſack, the one of them above the

the other in order as is above rehearſed.

Be it alſo enacted by authority aforeſaid, that in all tryals of Treaſon by Peers of this Realm, If any of the Peers that ſhall be called hereafter to be triers of ſuch Treaſon, ſhall happen to have any of the Offices aforeſaid, that then they having ſuch Offices, ſhall ſit and be placed according to their Offices, above all the other Peers that ſhall be called to ſuch trialls, in manner and form as is above mentioned and rehearſed.

And it is alſo enacted by authority aforeſaid, That as well in all Parliaments, as in the Star-Chamber, and in all other Aſſemblies, and conferences of Counſel, The Lord Chancellor, the Lord Treaſurer, the Lord Preſident, the Lord Privy Seal, the Great Chamberlain, the Conſtable, he Marſhal, the Lord Admiral, the grand Maſter or Lord Steward, the Kings Chamberlain, and the Kings chief Secretary, ſhall ſit and be placed in ſuch order and form as is above rehearſed, and not in any other place, by authority of this preſent Act.

And in Sir *Edw. Cooke*, 11. *part. fol.* 1. The Caſe concerning priority of place in the upper Houſe of *Parliament* was as followeth, at the *Parliament* held the 30. *Eliz.* The Caſe was thus:

Thomas Laware Knight, Lord *Laware*, ſon and heir of *William*, ſonne and heir of *George*, brother and heir of *Thomas*, Sonne and Heire of *Thomas* Lord *Laware*, exhibited his Petition to the Queen to this effect; That whereas *Thomas* the Great-grandfather was called to *Parliament* by Writ of Summons, 3. *Hen.* 8. and afterwards this *Thomas* the Great-grandfather dieth; after whoſe death *Thomas* his ſon was called to divers *Parliaments* by Writ of Summons; And afterwards by Act of *Parliament* 3. *E.* 6. for divers cauſes in the ſaid Act mentioned, it was enacted, That the ſaid *William* during his life ſhould be diſabled to claim and enjoy any dignity or ſuperiority in any right, Eſtate, *&c.* by deſcent, remainder, or otherwiſe. And afterwards the ſaid *Thomas* the ſon of *Thomas* dieth; after whoſe death the ſaid *William* being diſabled was not called to any *Parliament*

ment by Writ of Summons, till Queen *Elizabeth* called him to *Parliament* by Writ of Summons, and ſits as youngeſt Lord of the *Parliament*: And afterwards he dieth, and now the ſaid *Thomas* his ſon being cal'd to *Parliament* by Writ of Summons, ſueth to the Queen that he may have place in *Parliament* of his Great-grandfather (*that is to ſay*) between the Lord *Berkley* & the Lord *Willoughby* of *Eresby*; And the ſaid Petition was indorſed in theſe words; *Her Majeſty hath commanded me to ſignifie to your good Lordſhips, that upon the humble ſuit of the Lord* Laware, *She is pleaſed that the matter ſhall be conſidered and determined in the Houſe.*

Which Petition being read in the upper houſe of *Parliament*, the Conſideration of this was referred and committed to the Lord *Burley*, Lord Treaſurer of *England*, and divers other *Committees*, who at his Chamber at *Whitehall* heard the learned Counſell on both ſides, in the preſence of the two chief Juſtices, and divers other Juſtices: And two Objections were made againſt the Lord *Laware*; Firſt, inſomuch that his Father was diſabled

by Act of *Parliament* to claim the Dignity: The Petitioner may not convey by him who was disabled, as Heir to his Great-grandfather, and by consequence he may not have the place of his Great-grandfather.

But it was resolved by all the Judges, That there was a difference between a Personary and a Temporary disability, and absolute perpetuall disability: As whereas one is attainted of Treason or Felony, this is absolute and perpetuall disability by corruption of blood, for any of his posterity to claim any hereditament in Fee simple, either as Heir to him, or any other: but disability by *Parliament* without any Attainder, to claim the Dignity for his life, that is personal disability for his life onely; and his Heirs after his death may claim as Heir to him, or any Ancestor to him, or any other Ancestor above him. The second Objection is, that the said *William* hath accepted new Creation of the Queen; which Dignity newly gain'd descendeth to the Petitioner, which may not wave; and for that the Petitioner may not have other

place

place then his father had.

To this it was anſwered and reſolved, that the acceptance of a new Creation by the ſaid *William* may not hurt the Petitioner, becauſe the ſaid *William* was at that time diſabled, and in truth he was no *Baron*, but onely an Eſquire; ſo that when the old and new dignity deſcended together, the old ſhall be preferred; which reſolution was well approved by all the Lords Committees, which was accordingly reported to all the Lords of the Parliament, and allowed by them all; whereupon it was ordered by the Lords, that the Queen ſhould be acquainted with this by the Lord Keeper; which was done accordingly.

Whereupon at the ſaid *Parliament*, the Lord *Laware* in his *Parliament* Robes, was by the Lord *Zouch*, ſupplying the place of the Lord *Willoughby*, within age at that time, and the Lord *Berkley* alſo in his Robes, brought into the Houſe, and placed in his place (that is to ſay) next after the Lord *Berkley*; *Garter* King at Armis attending upon him, and doing his office.

In the upper Houſe of *Parliament* doe ſit the Juſtices upon ſacks of Wooll, *in medio Cameræ*; who are called thither by the Kings Writ, *quod perſonaliter interſitis nobiſcum ac cum cæteris de conſilio noſtro prædictis negotiis tractat. veſtrumque conſilium impenſur.* And this *negotia* be *Ardua & urgentia negotia Regni, &c.* And their Oath amongſt other things is, that they ſhall counſell the King truly in his buſineſſe; but they have no voice among the Lords.

If a Writ of Errour be brought in *Parliament* upon a Judgement given in *Kings Bench*, the Lords of the higher Houſe onely, without the Commons, are to examine the Errours; and that is by the Advice and Counſell of the Judges, who are to inform them what the Law is, and to direct them in their judgement; and if judgement be reverſed, then commandment is to be given to the Lord Chancellour to doe Execution accordingly. And ſo was done in the 7. of *R.* 2. in a VVrit brought in *Parliament* by the Deane and Chapter of *Litchfield*, againſt the Prior and Covent of *Newport*. *Pannell*,

as

as appeareth by the Record. And if the judgement be affirmed, then the Court of K. Bench are to proceed to Execution of the judgment, as appears in *Howerdewes* Case, 1. *H.7. Fol.* 19.

But it is to be noted, that in all such Writs of Errours, the Lords are to proceed according to the Law; and for their judgement therein, they are informed and guided by the Judges, and doe not follow their own Opinions or discretions. See *Egertons postnati, fol.* 23.

There doe also sit the Secretaries of Estate, who are to answer to such Letters or things passed in the Councel whereof they have the keeping; and with them the Master of the Roles: But they have no voice in *Parliament*, if they be not of the degree of a Baron.

Note by *Kirby*, Clerk of the Roles of the *Parliament*, It is thus in the Books of the Law, the 33. *H.6.c.*87. If a Bill come first to the Commons, and they doe passe it, then the use is to indorse it in this forme, *Soyt bayle à Seigneures*: And then if the Lords nor K. do not alter the Bill, then it shall be

inroled by the Clerk of the *Parliament*, and if the Bill paſſe, then it ſhall be inrolled; but if it be a particular Bill, then it ſhall be filed upon *filaces*, and that ſhall ſuffice, unleſſe the party whom it particularly concerneth will ſue to have it inrolled, that it may be inrolled to be ſure.

All the priviledges which do belong to thoſe of the Commons Houſe of *Parliament*, *à fortiori* doe appertain to all the Lords of the Upper Houſe; for their perſons are not onely free from arreſts during the *Parliament*, but during their lives; nevertheleſſe the Original cauſe is by reaſon they have place and voice in *Parliament*: And this is manifeſt by expreſſe Authorities grounded upon excellent Reaſons in the Book of Law.

And if a Baron, Viſcount, Earle, Marqueſſe or Duke of *England* bring any Action reall or perſonall, and the defendant pleadeth in abatement of the Writ, That he is no Baron, Viſcount, Earle, *&c.* and thereupon the Demandant or Plaintiffe pleadeth in abatement of the Writ, and taketh iſſue; This iſſue ſhall not be tried by

by a Jury, but by the Records of the *Parliaments*, whether he or his Anceſtors, whoſe Heir he is, were called to ſerve there as a Peer, or one of the Nobility of the Realm. See Sir *Edward Cookes 6. part. 53. & 7. part. Fol. 17. a.*

In the ancient *Britains* and *Saxon* Kings dayes, the Archbiſhops and Biſhops were called to their *Parliaments* or other Aſſemblies of State; which was done not ſo much in reſpect of their Tenures, for in thoſe dayes all their Tenures were *Francki Almonage*; but eſpecially, becauſe the Lawes and Counſels of men were then moſt currant and commendable, and had a more bleſſed iſſue and ſucceſſe, when they were grounded upon the fear of God, the root and beginning of Wiſedome. And therefore our wiſe and Religious Anceſtors called thither thoſe chief and principall perſons of the Clergy, who by their place and profeſſion, by their Gravity, Learning and Wiſedome might beſt adviſe them what was the Law of God, his acceptable will and pleaſure; that they might form their humane Lawes anſwerable, or at the leaſt not contrary /

trary or repugnant thereunto. Nevertheleſſe, ſhortly after the *Norman* Conqueſt, the Conquerour altered the Tenure of the Biſhopricks, not without ſome complaint and grief of the Clergy, as it is mentioned in *Matthew Paris*, *Anno* 1070.

And in the Conſtitutions of *Clarendon*, in the time of *Henry* 2. *Anno* 1164. It is expreſſed in the eleventh Article.

Thereby we ſee the preſence of the Biſhops in *Parliament*, in reſpect of their Baronies, *quouſque perveniatur ad diminutionem*, *&c.* for ſo even unto our times, when queſtion is had of the attainder of any Peer, or other in *Parliament*, the Archbiſhops and Biſhops depart the higher Houſe, and doe make their Proctors; for by the Decrees of the Church they may not be Judges of life and death. Ever ſince the Conqueſt the Archbiſhops and Biſhops have no title to have place and voice in *Parliament*, but only in reſpect of their Temporal Baronies.

And it is to be obſerved, that although of later times the uſe & manner of penning of Stat. is, that it is enacted by

by the Lords Spiritual and Temporal, and the Commons in the ſame aſſembled; yet the ancient form was not ſo, which you may ſee exemplified in Sir *Edw. Cokes* 8. *part*, *fol.* 19.

And good Acts of Parliament may be made, though the Archbiſhops and Biſhops would not conſent thereunto; for a Statute was made *Anno* 1196 by the King, the Barons and the Commons (*Clero excluſo,*) and this was at a Parliament holden at Saint *Edmundsbury*, in the reign of *E.* 1. as it is reported by *Jewel* Biſhop of *Salisbury* againſt *Harding*, *fol.* 620. And in the Province of *Mirton*, in the time of *H.* 8. a matter was moved of Baſtardy, touching the legitimation of Baſtards born before marriage; where it is ſaid, That the Statute did paſs intirely with the Lords temporal, againſt the wills of the Lords ſpiritual: which Statute is in the Books in the 20. year of *H.* 8. 3. *c.* 9.

And in 11. *R.* 2. *c.* 2. It is enacted, that the appeals, purſuits, accuſements, proceſſes, judgments & executions made & given in this preſent Parliament be affirm'd and eſtabliſhed, as a thing duly made

made for the weal and profit of the King our Soveraign Lord, and of all the Realm, notwithstanding that the Lords Spiritual and their Procurators did absent themselves out of the Parliament the time of the said judgment given, for the honesty and salvation of their estates; as it is contained in a protestation made by the Lords Spiritual and their Procurators delivered in this present Parliament.

See *Kelbaucies* Book *fol.*184. in the 7. *H.*8. The Justices did say, that our Soveraign Lord the King may well hold his Parliament by him and his Temporal Lords, and by the Commons also, without the Spiritual Lords; for the Spiritual Lords have not any place in the Parliament-Chamber by reason of their Spiritualties, but onely by reason of their Temporal possessions.

The Soveraign power of this High Court of Parliament is this; That albeit the Kings Majestie hath many great priviledges and prerogatives, yet many things there are not effectual in Law, to pass under the great Seal by the Kings Charter, without

Parlia-

liament; as upon this point it was resolved by all the Judges in the Princes Case, That the Dukedom of *Cornwal, &c.* did not, nor could pass from *E.* 3. by his Charter made in Parliament, That his Son and Heir apparent, and to his Heirs in form, as it was intended and made in *Anno* 11. of his reign. But of necessity it was, and so was done by authority of Parliament; which Case is notable and worth the reading: See Sir *Edw. Cokes* 8. *part. fol.* and his 7. *part fol.* 7. *a.* The King by his Letters Patents may make a denizen, but cannot naturalize him to all purposes, as an Act of *Parliament* may do; for the Kings Charter cannot make any hereditable in this Case that by the common Laws cannot inherit. And herewith agreeth the 36. of *H.* 8. *Denizon Brook.*

Bracton in the beginning of his second Book saith, *Nihil aliud potest Rex in terris, cum sit Dei minister & vicarius, quàm quod de jure potest*: and a little after, *Ita q3 potestas sua est Juris non injuriæ; & sicut sit author Juris,*

non

non debet inde injuriarum naſci occaſio unde jura naſcuntur.

And it appeareth in *Fitzherberts Natura Brevium*, 222. in the Writ *ad quam damnum*, that every grant of the King or gift hath his condition expreſſed or implied, as by the Law annexed to it; *Itaq; quod per donationem illam patria magis ſolito non oneretur ſeu gravetur.*

And therefore it was reſolved by all the Judges 4. *Jacobi*, that they who dig for Salt-peter, may not dig within the Manſion-houſe of any ſubject, without his aſſent, for the manifeſt inconveniences that thereby may grow to the owner of the houſe. See Sir *Ed. Coke* 11. *part*. 82.

Alſo the Commiſſion to be made, the purveyers for Timber for the Kings uſe, yet they cannot by that authority take Timber-trees growing upon any mans Freehold: for that is prohibited by *Magna Charta cap.* 21. *Nos nec Ballivi noſtri nec alii capiemus boſcum alienum ad caſtra vel ad alia agenda noſtra, niſi per voluntatem cujus boſcus ille fuerit.*

A Commiſſion was awarded to take

take ſinging-boyes in Cathedral-Churches, or in other places where ſuch are inſtructed, for the furniſhing of the Kings Chappel; theſe general words by conſtruction ſhall have a reaſonable underſtanding, that is to ſay, ſuch children as be taught to ſing, thereby to acquire or get their livings, ſuch may be taken for the Kings ſervice; but the ſon of a Gentleman, or any other who is taught to ſing for his recreation, ornament, or delight, may not be taken againſt his will, or againſt the will of his parents or friends; and ſo it was reſolved by all the Judges and whole Court of Star-Chamber, 43. *Eliz.*

If a man be attainted of Felony or Treaſon, by Verdict, Outlary, Confeſſion, &c. his blood is corrupted: which is a perpetual and abſolute diſability for him or his poſterity to claim any hereditament in Fee-ſimple, either as heir to him, or any Anceſtor *Paramount* him; and he ſhall not be reſtored to his blood without Parliament: and the King may give to any attainted perſon his life, by this Charter of Par-

Parliament. See *Stamfords Pleas*, 195. For the King cannot alter the Common Law, or the general cuſtomes of the Realm, ſuch as the deſcent of *Guvelkind*, *Burrough Engliſh*, or ſuch like, without *Parliament*. See *Brooks Prerogative* 15. & 11 *H.* 4. *c.* 73.

And it is ſet down for a rule, That if a King have a Kingdom by deſcent, there ſeeing by the Law of that Kingdom he doth inherit that Kingdom, he cannot change thoſe Laws of himſelf, without conſent of *Parliament*.

Forteſcugh alſo ſaith in his 9. *cap. fol.* 25. 6. If the power of the King over his ſubjects were royal onely, and not politick, then he might change the Laws of the Realm, and charge his ſubjects with Tallages and other burdens without their conſent. And that ſuch is the dominion the Civil Law purports, when they ſay, *Quod Principi placuit legis habet vigorem.* But by the Laws of this Kingdom the King cannot by his Proclamation alter the Law; but the King may make Proclamation that he ſhall incurre the indignation of his Majeſty

ſly that withſtandeth it. And by his abſolute authority, the King may commit any one to priſon during his pleaſure; ſee *Stamford* 72. But the penalty of not obtaining his proclamation, may not be upon pain of forfeiture of his Goods, his Lands, or his Life, without *Parliament*. See *Crompt ons Courts* 14. *a.* & 16. 6. *Sed omnis non capit hoc verbum*; for they of another profeſſion in Law ſay, that of theſe two one muſt needs be true, that either the King is above the *Parliament*, that is, the poſitive Law of the Kingdom; or elſe that he is an abſolute King, *Arreſt. lib. Plict. cap.* 16. And therefore though it be a merciful policy, and alſo a politick mercy, not alterable without great peril, and to make Laws by the conſent of the whole Realm, becauſe no one party ſhall have cauſe to complain of a partiality; yet ſimply to bind the King to or by thoſe Laws, were repugnant to the nature and conſtitution of an abſolute Monarchy.

In ſome ſpecial caſes there ſometimes may be liking of ſubjects with-

out

out land of poſſeſſion, as in the government which *Moſes* had over the children of *Iſrael* in the Wilderneſs, and in the caſe which Sir *Joh. Popham*, the late Lord chief Juſtice, did put in the Parliament; If a King and his ſubjects be driven out of his Kingdom by his Enemies, yet notwithſtanding he continueth ſtill King over his ſubjects, and they ſtill are bound to him by their bonds of allegeance, whereſoever they be: but he cannot be a King without ſubjects, for that were *Imperium imbellum, & Rex & ſubditi ſunt relativa.*

I believe *Solomon*, that ſaith, *Per me reges regnant, & Principes juſta decernunt*; and I make no doubt, but as God ordained Kings, and hath given Laws to Kings themſelves, ſo he hath authorized and given power to Kings to give Laws to their ſubjects; and ſo Kings did firſt make Laws, and then ruled by their Laws, and altered and changed their Laws from time to time as they ſaw occaſion, for the good of themſelves and of their Subjects.

By the premiſſes it appeareth, that

Acts

Acts of Parliament and Statutes are made in this High Court of Parliament by the King, with the consent of the Commons, or by the greater part of them; for so saith *Littleton*, 15 *E.*4.*fol.*2.*a.*

In the Parliament, if the greater part of the Knights of the Shire do assent to the making of an Act of Parliament, and the lesser part will not agree to it, yet this is a good Act or Statute to last *in perpetuum*: and that the Law of *Majoris partis* is so in all Counsels, Elections, &c. both by the rules of the Common law and the Civil.

In this Court of Parliament they do make new positive Laws or Statutes, and sometimes they inlarge some of them as unto them seemeth good: and it is good counsel, that in making of laws, *quoad ejus fieri possit, quam plurima legibus definiantur, quam pauciſſima vero Judicis arbitrio relinquantur* yet forsomuch as every considerable circumstance cannot be foreseen at the time of the making of the Law, for, *rerum progressus* oſten-

oſtendunt multa quæ in initio præcaveri ſeu provideri non poſſunt. Therefore by the very intent of the makers of the Statute, they do many times leave to be ſupplied by the diſcretion of the executioner of the Law that thing which was not conveniently comprehended before-hand by the wiſedom of the Authors of the ſame: for the expounding of the Laws doth ordinarily belong to the reverend Judges, and in caſe of greateſt difficulty of importance to the High Court of *Parliament.* See *Plowdens Commentaries, fol.* 363. *a.* 364, *&* 365.

And the Judges do ſay, that they may not make any interpretation againſt the expreſs words of the Statute, where the intent of the Makers of the law doth appear to the contrary, and where no inconvenience by the Statute ſhall enſue; for in ſuch caſes *A verbis legum non eſt recedendum.*

But to exemplify all the ſeverall kinds and forms of penning them, and the words of them taken and conſtrued, ſometimes by execution, ſometimes by reſtriction, ſometimes by implication, ſometimes by diſjunction,

ction, ſometimes a disjunctive for a copulative, ſometimes a copulative for a disjunctive, the preſent tenſe for the future, the future for the preſent; ſometimes by equity out of the reach of the words, ſometimes taken in a contrary ſenſe, ſometimes ſingularly, as *continens* pro *contento*, and ſuch like, will ask a volume by it ſelf, and in my opinion is not incident to this Diſcourſe of the *Juriſdiction of the High Court of Parliament*.

ANCIENT

ANCIENT CUSTOMES OF *ENGLAND.*

BEing desirous for my own particular satisfaction to search and inquire after reverenced Antiquity, it was my hap to light on an old Manuscript, which although in sound is *Saxon*-like, yet in some things it savours of the *Danish* matters, and of the ancient *British* Laws under the Rule and Government of the *Danes*: which writing writ in the *Saxon* tongue, I have translated into *English* word for word, according to

to the true ſenſe and meaning thereof.

IT was ſometimes in the Engliſh Laws, that the People and the Laws were in Reputation: and then were the wiſeſt of the People Worſhip worthy, each in his degree, Lord and Chorle, Theyne and Undertheyne. And if a Chorle ſo thrived that he had full five hides of his own Land, a Church and a Kitchen, a Bell houſe and a Gate, a ſeat and ſeverall offices in the Kings Hall; then was he thenceforth the Theyns right worthy. And if a Theyn ſo thrived that he ſerved the King, and on his meſſage, or journey rod in his houſhold; if then he had a Theyne that him followed, who to the Kings expedition five hide had, and in the Kings Pallace his Lord ſerv'd, and there with his errand had gone to the King, he might afterward with his fore Oath his Lords part play at any need. And if an

Theyn ſo thrived, that he became an Earle, then was he right forth an Earle right worthy. And if a Merchant ſo thrived that he paſſed thrice over the wide Sea of his own craft, he was thenceforth the Theyns right worthy: And if a Scholler ſo thrived through learning, that he had degree, and ſerved Chriſt, he was thenceforth of dignity and peace ſo much worthy as thereto belonged, unleſſe he forfeited ſo, that he the uſe of his dignity might be taken from him.

Theſe ruines of Antiquity make ſhew of a perpetuity of Nobility, even from the beginning of this Iland. But times are changed and we in them alſo. For King *Edward* the Confeſſor, laſt of the *Saxon* blood, coming out of *Normandy*, bringing in then the title of *Baron*, the *Theyne* from that time began to grow out of uſe; ſo as at this day men remember not ſo much as the names of them. And in proceſs of time the name of Baronage be-

began to be both in dignity and power so magnificent above the rest, as that in the name of the Baronage of *England* all the Nobility of the Land seem'd to be comprehended. As for Dukes, they were (as it were) fetcht from long exile, and again renew'd by King *Edward* the third. And Marquesses and Vicounts were altogether brought in by King *Richard* the Second, and King *Henry* the Sixth.

But our Kings descended of the *Norman* blood, together with the Crown of the Kingdom, granted an hereditary and successory perpetuity unto honourable titles, such I mean as are the titles of Earldom, and Baronies, without any difference of Sex at all; which thing I thought good to make manifest by the examples of the more ancient times. In the reckning up whereof, that I may better acquit & discharge my self, I shall in the first place desire the Reader to observe three things; First, concerning the disposition and inclination of our K. in the creating of the Nobility. Secondly, of the custome of transferring of Honors and dignities

by Families. And Thirdly, of the force of time, and the change and alteration of things. For why, our Kings (who in their Kingdomes bear alone the absolute rule and sway) are with us the efficient causes of all Political Nobility. The titles of named Nobility by our Custome have this natural and common together with the Crown it self, that the Heirs males fayling, they devolve unto the women, except in the first Charters it be in expres words otherwise provided; and yet so that regard is alwayes to be had of the time, which is every where wont to bear sway in the formality of things.

In this manner (*Harold* being overcome) *William* the first King and Conqueror having obtained the Soveraignty, according to his pleasure bestowed Dignities and Honours upon his companions and others; some of them so connext and conjoyn'd unto the Fees themselves, that yet to this day the possessors there of may seem to be innobled even with the possession of the places onely: as our Bishops at this day, by reason of the Baronies joyned unto their Bishopricks, injoy the

Title

Title and Preeminence of Barons in the higheſt Aſſemblies of the Kingdome in *Parliament* : he gave and granted to others Dignities and Honors, together with the Lands and Fees themſelves. He gave to *Hugh Lupus* his Kinſman (a *Norman*) the Earldome of *Cheſter*, *Ad conquirendum & tenendum ſibi & Hæredibus, adeo liberè per gladium, ſicut ipſe Rex tenuit Angliam per Coronam.* To *Hanus Rufus* (then Earl of *Biritain* in *France*) and his Heires the Earldome of *Richmond*, *Ita liberè & honorificè, ut eundem Edwinus Comes antea tenuerat.* And the Earldome of *Arundell* (which *Harold* poſſeſſed) he granted with a Fee unto *Roger* of *Montgomery*. The firſt two of which Honours (the Heirs male fayling) by Women paſſed unto other Families: But the later Earldom; *Robert* the ſon of *Roger* being attainted of Treaſon, returned unto King *Henry* the Firſt, who gave the ſame in Dowry unto Queene *Adeliza* his VVife: But the Succeeding Kings more ſparingly beſtowed ſuch Dignities to be holden of them in Fee, granting for the better and more honourable

maintenance of their ſtock and honor, the third part of the Pleas of the County (as they term it) which they in their Charters call *Tertium denarium*, or the third penny: ſo that he who received the third penny of any Province, was called Earl of the ſame; and ſo by cuſtome the Women, the Heirs male fayling.

And if any Earl or Baron dying without ſons had many Women his heirs, howſoever order was taken either by way of Covenant, or partition, concerning the lands and poſſeſſions, according to the common laws of the kingdom, yet the dignity and honor (a thing of it ſelf indiviſible) was ſtill left to be diſpoſed of according to the Kings pleaſure, who in beſtowing thereof uſually reſpected the Prerogative of birth: by which right, K. *Hen.* the third after the death of *John* the Scot, dead without iſſue (other Lands and revenues being by agreement given to his three ſiſters) united the Earldome of *Cheſter* with the honour thereof unto the Crown. This is manifeſt in the Earldom of *Arundel*, (which after *Robert Beliſme* ſon to the aforeſaid *Roger Mount-*

Mountgomery, driven out by *Henry* the first) King *Henry* the second bestowed upon *William* of *Albine*, Qu. *Adeliza* his Mothers husband, and by a new Charter confirm'd it in fee, together with the Inheritance to him and his Heirs, with the third Pleas of *Sussex*, whereof he created him Earl. But *Hugh* the great Nephew of this *William* the first, being dead without issue, all the Earldome was divided among his four sisters; whose dignity and honour for all that, together with the Castle of *Arundel*, was by *Edward* the first at length given to *Richard Fitz-Alan* (the Nephews Son to *John Fitz-Alan*, and *Isabel* the second of the aforesaid sisters.)

I will now passe from *Henry* the third, to *Edward* the first his Sonne, there being for a time great dissention betwixt him and certain of his Nobility, viz. *Gilbert* of *Clare* Earl of *Hartford* and of *Gloceſter*, *Humphrey* of *Bohun* Earl of *Hereford* and *Sussex*, and Constable of *England*; and *Roger Bigod* Earl of *Norfolke*, Marshall of the Kingdom: and that all those Noblemen at length had lost their Earl-

doms and offices, they being reconcil'd to the King; afterward they again by new Charters received the same in this manner: The first of them to himself & *Joan* his wife, the same K. daughter, his second wife, for term of both their lives; and to the children to be by both of them begotten (his two daughters by his first wife being excluded.) This *Joane* (called *Joane* of *Acon*) bare unto her husband *Gilbert* a Son called also *Gilbert*; but she the second time secretly married unto one *Radulph* of *Mont Hermeri* (without the K. her fathers knowledge) and in her own right made the same *Radulph* Earl so long as she lived: but she being dead, *Gilbert* her Son by the aforesaid *Gilbert* succeeded again into the Earldom, *Radulph* his father in law being yet alive. In the same manner he restored to the aforesaid *Humphrey* of *Bohun* his Earldom and Constableship, unto whom he also gave in mariage *Elizabeth* another of his daughters, widow to *John* Earl of *Holland*: and to the third he restored the Earldom of *Norfolk*, and the Office of Marshal, with the yearly increase of a thousand Marks, upon condition if

the

the heirs male of his body to be begotten fayled, both ſhould return again to the King. At length this *Roger* died without iſſue, in the xxxv. yeare of him the ſaid *Edward* the firſt, *viz.* in the laſt year of his Raign: and King *Edward* his Sonne, the ſecond of that name, both by a new Creation and Charter, gave the Earldome and the Marſhalſhip to *Thomas* of *Brotherton*, and his heir male.

Theſe things I have propounded, thereby to ſhew how according to the diverſe Diſpoſitions of Princes, and change of Times, it hath by little and little varied in the firſt beſtowing of Dignities and Honours: Of which thing, that new Law, and to them of Ancient time unknown, made by King *Edward* the firſt, ſeemeth afterwards to be of no ſmall moment, whereby, he favouring certain private men, more carefull of their own ſurname, then of their Poſterity, it was thought good by him to decree to make Fees to belong to men only. That law which I would in latine call *Gentilitium Municipale*, & wch the Lawyers commonly call *Jus taliatum*,

and *Talliabile*, or the Law of cutting off, for that it cutteth off Successions before generall, and restraineth them to the particular heirs of Families; wch seems to have given an occasion of change in the giving and bestowing of dignities and honors: For ever since that time, in the Creating of any new Earl, it is begun to be altered by expres words in all Charters, provided, that it shall be but for term of life onely, or descend unto the heirs males alone, the women being quite excluded. And for this I need not examples to prove; for why, the thing it self proveth the same. But the force and efficacy of this Law of Entail (or of cutting off) I have thought good thus in few words to declare.

And what I have said concerning Earles, the same may be said also of Barons created by Charters; but in Barons created by Rescripts, or Writs of Summons, yet resting upon most ancient custom not so.

For in them (one only excepted, sent forth to *Henry Bromflet*, wherein it was provided him, that same *Hen.* and his heirs male of his body lawfully begotten

gotten only to be Barons of *Vesey*) women, the heirs male failing, were not in ancient time forbidden or imbarred, but that they migh be accounted, and by name stiled Honourable, with the preeminence of the dignity and calling of Barons: and after they had born a child, according to the ancient favour of our Lawes, (and the custom of the Kingdom) graced their Husbands also with the same honour, and with the same by Inheritance ennobled their Children, yea without the possessions of those places from whence the name of such dignities and honors may seem first to have risen. For Fees and Local possessions circumscribed by the Law, are translated and carried from one family unto another, and usually enrich their Lords and owners, the possessors thereof, but yet of themselves neither bring, nor take away Nobility, either Dative or Native. By example to manifest these things were but needles, and of little consequence; for why, all the most ancient Baronies, and the more ancient sort of the Barons at this day, are in this point on my side: and if any shall object against me in this point,

unto,

unto him I will oppose either the force of time, or the careleſſeneſſe and lack of looking unto. But cuſtomes are ſtill like themſelves, nor muſt we detract from the authority of Kings, who although they have ſuch ſupereminent and undeterminate prerogatives, as that they may ſeem ſometimes to have of favour granted ſome things beſide the Law, yet it ſhall not appear them to have done, or yet ſuffered to have been done, any thing contrary to the cuſtom of Stocks and Families; ſo ſometimes they not regarding the ſolemnities of Ceremonies and Charters, have onely by their becks (that I may ſo ſay) ſuffered dignities and honours to be transferred, as in *Ranulph Blundevil* Earl of *Cheſter* and of *Lincoln*, to be ſeen, for the Earldom of *Cheſter* he permitted after the manner to deſcend to *John* the *Scot* his Nephew by *Maude* the elder of his Siſters: But the Earldom of *Lincoln* (the King thereunto conſenting) he yet alive delivered unto *Hawiſia* another of his ſiſters then married to *Robert Quincy*, by his Deed in the ſeventh year of *Henry* III. Theſe

These things I say were of old and ancient time, but at this day not so; for such is the force of time, and change in altering the forms of things, as that in eating out of the old bringeth still in new: so unto Earls, whom we said in ancient time to have been rewarded with the third peny of the Province whereof they were Earls, to maintain their honour and dignity, a certain summ of money is at this day yearly paid them out of the Exchequer, and they the Titles of such places, as wherein they have no jurisdiction, administration, or profit at all. Barons also, who, as the Fathers and Senators in ancient times among the *Romans* were chosen by their *Sestertia*, were in like manner wont to be esteemed and valued by Knights fees; for why, he which had and possessed thirteen Knights fees, and a little more, was to be accounted among the Barons, & are now more seldom times chosen for their vertue, then great wealth, & large possessions.

Neither is there any let, but that a man may hold and still retain the name and title of a Barony, the head

of

of which Barony (as they term it) he hath afterward sold or alienated to some other common person.

In brief, our Kings Royal Majesty is always like it self, constant and the same, which having regard to the virtue, stock, wealth, and substance of any man (whereby he may with his counsels service profit the Commonwealth) may in every place freely give and bestow dignities and honours, sometimes chusing no more Barons then one out of one and the same family; the custome of the succession of the former and more ancient Baron, being still kept whole, and not in any hurt; as we see *Edward* the sixt wisely to have done in the family of the *Willoughbies* of *Ersby*, brought forth also another Barony of *Parham*. Wherefore we acknowledge out Kings to be the fountains of Political Nobility, and unto whom we may with thanks refer all the degrees of honours and dignities; wherefore I may not without cause seem to rejoice, on the behalf of our Nobility of Great *Britain*, which hath had alwayes K. themselves Authors, Patrons, Governors and Defenders;

ders thereof; that when Lands, Fees and Poſſeſſions, ſubject to Covenants or agreements, are ſtil toſſed and turmoil'd with the ſtorms of the judicial Courts, and of the Common Law, it is onely unto the Kings themſelves beholding, and reſteth upon Heroical orders and inſtitutions proper and familiar unto it ſelf, ſo that,

Per titulos numerentur avi, ſemperq; renata
Nobilitate virent, & prolem fata ſequantur,
Continuum propriâ ſervantia lege tenorem.

By Titles great mens Anceſtors are known, the poſterity of whom enjoy the ſame to their flouriſhing and everlaſting fame.

William the Conqueror, after the death of *Harold* having confirm'd the Kingdom to himſelf, laid theſe foundations of ancient and worthy Nobility, which afterwards by his ſucceſſors, according to the divers occurrents and occaſions, by little and little became at length in the reign of King

King *Henry* the third, and *Edward* the first, to appear a goodly and stately building, who having vanquished the *Welsh-men*, and contending with the *Scots* bordering upon them, for Principality and Soveraignty, entreating of all things concerning the Commonweal with the three States of the Kingdom (which consisteth of the Nobility, the Clergy, and Communalty) they themselves in their Royal Majesty sitting in *Parliaments*, appointed unto every man a preeminence, according to the place of his dignity; from whom especially all the Nobility of our age may seem to derive the divers and appointed degrees of dignities and honours.

Now to abbreviate much that might be writ in the continuance of this Discourse, I shall desire to straiten my purpose to some handsome conclusion, by the observation of the degrees and sitting of our *English* Nobility in the *Parliament*-Chamber, out of the Statute of the 31. of King *Henry* the Eight, who of his

his Princely wiſdom, with the full aſſent of the whole *Parliament*, cauſed a particular Act to be made for the placing of the Nobility in the Upper Houſe of *Parliament*; the effect whereof I have here recited:

That foraſmuch as in all great Aſſemblies and Congregations of men having degrees and Offices in the Commonwealth, it was thought fit and convenient that order ſhould be taken for the placing and ſitting of ſuch perſons as are bound to reſort to the ſame, to the intent that they knowing their places, might uſe the ſame without diſpleaſure, the places of which great Officers deſerve reſpect and admiration: and though meerly officiary, and depending on life, and the Kings gracious election, without any hereditary title or perfection, yet are they of ſuch high dignity, that all hereditary honour whatſoever under the degree of Royalty may (at all times) without diſparagement give them place and precedency: The placing of theſe moſt Noble and Great Officers both in the *Parliament*-Houſe, and other Aſſem-

Assemblies, is after this worthy and distinct order.

That is to say, the Lord Chancellor or Lord Keeper, the Lord Treasurer, the Lord President of the Kings Privy Councel, and the Lord Privy-Seal, being of the degree of Barons of the *Parliament*, or above, to sit on the highest part of the form, on the left side in the *Parliament*-Chamber; and above all Dukes, except those which are the Kings Sons, the Kings Brothers, his Uncles, his Nephews, or his Brothers or Sisters Sons: but if any of these four great Officers aforesaid shall be under the degree of a Baron, then he or they to sit on the uppermost part of the Sacks in the middest of the *Parliament*-Chamber, in such order as is afore shewed.

As touching the other, it was enacted that the Lord great Chamberlain, the Lord Constable, the Lord Marshal, the Lord Admiral, the Lord Steward, and the Lord Chamberlain of the Kings Houshold, shall be placed next to the Lord Privy-Seal, each of them above all other personages being

being of their own eſtates or degrees, and holding the ſame precedence, as they are formerly named.

Laſtly, The principal Secretary being of the degree of a Baron, ſhall be rang'd above all Barons, (not having any of the former offices alſo) and this range and precedency to continue to all the great Officers in general which are before named, both in *Parliament*, in Councel-Chamber, in the Star-Chamber, at the trial of Peers, and in all other Aſſemblies whatſoever.

This in brief is the effect of the Statute, expreſſing the dignity and place of our moſt principal and ſupremeſt Temporal Officers; of which the firſt and chiefeſt is the Lord Chancellor, or Lord Keeper, who is ſaid to be the Kings Conſcience, his mouth, and confirmation, for by him all the rigours of the Law are bridled, the Kings will in grave Conſultations reveled, and his gifts and prerogatives confirmed; before him all the great buſineſs of the Commonwealth is

diſ-

dispatcht, either at Councel-Table, in Star-Chamber, or in the Chancery, where he hath a principal voice and precedence: and lastly he hath the keeping of the great Seal of the Kingdom, in which is expreſt a reputation ſo ſerious that all Subjects lives and Eſtates depend on the ſame.

The next in place is the Lord High Treaſurer of *England*, to whoſe truſt the Kings Treaſure is committed; who is a man of that noble, worthy, ſweet and generous diſpoſition, of important confidence, of noble eſtimation, excellent in wiſdom, and high in eſtimation, and to his wiſdom and excellent judgment is referred the whole mannage of the Kings entire Eſtate, and the provident regard of the wealth and flouriſhing proſperity of all the Kings Subjects: he is the prime Officer Judicatory between the King and his Tenants, and hath dependence on the Council-Table, the Exchequer, and the Kings Royal Houſe and Family.

The

The next to these is the Lord President of the Kings most honourable Privy Councel, and is the chief man (next the King) belonging to that high and honourable Assembly, and hath in his power, under the Kings Majesty, the mannage of the priviledges of that Honourable Table.

The next is the Lord Privy Seal, an especial Ensign of credit belonging to this Kingdom, having custody and charge of the Kings Lesser Seal, which gives testimony of the Kings favours and bounty, but also making the way clear and accessible to the Great Seal, in which consists the strength of his Majesties confirmations; these first four great Officers are civil, and judicatory, as depending on the publick State: after whom follow six other, which are as well Military as Civil, having the managing of all matters of honour, and warlike proceedings.

The first of which is the L. Chamberlain of the kingdom, whose Office is of the greatest imployment in all publick Assemblies, as Coronations, Par-

Parliaments, Triumphs, or any Solemnity where the King himself rideth in person: which Office is not Officiary, but Honorary, depending by a feudal right unto the Noble House of the Earls of *Oxenford*.

After this is the Lord Constable of the Kingdom, who was the first and principal General under the King of all the land-Forces, and in all occasions of Martial affairs, had the principal nomination of Officers, and ordering of Munition for such imployment.

Then is the Lord Marshal of the land, a great and renowned Officer, in whom consists the solution of all differences in Honour, and dispensation of all things appertaining to the great or lesser Nobility. Next followeth the Office of the Lord Admiral of the Land who is the Kings General, and chief Commander at Sea, and hath care and charge of all his Majesties Royal Navy, and the censuring of all Marine causes whatsoever.

The

The next following is the Lord Steward of the Kings Houſehold, in whoſe truſt and government is repoſed the ordering of all the great and Noble Families, the diſcuſſion of all controverſies, the placing and removing of Officers, and the diſpoſing of all things therein for his Majeſties renown and dignity.

The laſt of theſe great Officers is the Lord Chamberlain of the Kings Royal Houſhold; unto whoſe great truſt, faith and integrity is committed the guard of the Kings Royal perſon, he hath the controll and commandment of all Officers, and others whoſe dependence is on the Kings perſon; and howſoever ſome would limit his rule above the Stayrs, yet it is over the whole Court, and in all places whereſoever the King is preſent; with many other priviledges which at this time cannot be fully recited.

After all theſe great Offices and Officers, I muſt neceſſarily adde one great Officer more, namely the Kings

Kings chief and Principal Secretary of Estate, who deserves a due respect by his High and Honourable Place, in regard he is so intimate and nigh to all affairs of his Majesty, either private or particular.

THE MANNER How STATUTES Are enacted in PARLIAMENT BY Paſsing of Bills.

Collected many yeares paſt out of the Journalls of the Houſe of Commons.

By *W. Hakewil* of Lincolnes Inne, Eſquire.

Together with a Catalogue of the Speakers Names.

LONDON,
nted for *John Benſon*, in St. *Dunſtans* Church-yard. 1659.

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LONDON,
Printed for Tho. Brasier in St. Dunstan's Church-yard. 1659.

THE PREFACE.

HAving about thirty years past, the free use and perusall of all the Journalls of the Commons House of Parliament, from the first year of King *Edward* the Sixth, (being the most Ancient that they have) untill that time. And being unwilling to lose the advantage of that Opportunity, I read them all through, and whatsoever I

conceived to tend to the rule of the Houſe, (wherein I was the better inabled to judge, in reſpect I had ſerved in divers Parliaments, or Seſſions of Parliament before that time) I reduced under apt Parliamentary Titles. Amongſt the reſt in this Chapter of paſſing of Bills, I was the more ſedulous, becauſe it is indeed the dayly and moſt proper worke of that Houſe, wherein I have been carefull, not to propoſe any thing for a Rule, for which I have not vouched the Authority of the Journall. Thoſe my Collections, I imparted many years ſince to ſome of my Friends (which being by the length of time multiplied into very many Copies) one of them, (and I thinke the falſeſt written of all the reſt) was without my knowledge lately printed,

ted, and by the negligence of the Printer, the errours of the Copie were much increaſed, in ſo much that it pleaſed the Honourable Houſe of Commons, (becauſe it concerned their Orders) to take notice thereof, and take ſome order therein; by which I was induced to make this Publication, being otherwiſe very unwilling to have appeared in Print, and to have ſubjected my ſelfe to publique cenſure.

It were (in my poore Opinion) to be wiſht, that the ſame courſe were taken by the Houſe of Commons, as was by the Lords in 18. *Jacobi Regis*, who appointed a Committee for the collecting of the Rules and Orders of that Houſe; which being Collected, they cauſed to be fairly ingroſſed in

a Roll of Parchment, which by Order is alwayes read in the beginning of every Parliament, and reſteth in the cuſtody of the Clarke of that Houſe, to be preſently reſorted unto upon all occaſions, whereby much of their pretious time is ſaved, which otherwiſe perhaps would have been ſpent in the debating of the Rules and Orders of their Houſe.

Another excellent Order was made by their Lordſhips, that once every week, a Committee appointed for that purpoſe, that ſhould peruſe and perfect the Clarks notes, and that at the end of every Seſſion, all the Orders of that Seſſion ſhould be ingroſſed in vellam, and fairly bound up, which courſe firſt began in the time, when my worthy friend Maſter *Henry Elſynge*, that moſt indu-

induſtrious and able Gentleman, was Clark of that Houſe, and hath continued ever ſince; whereas before that time all their Journalls (of which the moſt ancient are from the beginning of King *Henry* the eight) are in paper, as are thoſe of the Commons Houſe, but more fairly written.

If to this care of perfecting of the Journalls of the Houſe of Commons, there were ſome proviſion made by that Houſe, for the ſafe preſerving of them, anſwerable to that which the Lords have, whoſe Clark hath a houſe belonging to him and his ſucceſſors, where all their Records are kept to Poſterity; the Journalls and Records of the Commons Houſe, would not (as now they may) come to the hands of Executors or Adminiſtrators, and be removed to and fro in hazard of being loſt, or corrupted

and defaced, as is well known that ſome of them have been, and that in paſſages of the greateſt moment, whereby the Common-wealth may receive great prejudice if it be not prevented, which my humble Propoſitions, I do (together with this Treatiſe) in all humility ſubmit to the great wiſdom of that Honourable Aſſembly, by whoſe favour this is publiſhed.

William Hakewel.

The

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The

The manner how STATUTES Are Enacted in *PARLIAMEMT* By Passing of BILLS.

CHAP. I.

Sect. 1.

By whom Bills are drawn and presented to the Parliament.

PUblique *Bills* are usually drawn by such of the House (with the advice of Lawyers) as of themselves are earnestly inclined to the effecting of some publick

lick good, which requireth the aſſiſtance of ſome new Law, which being fair written in paper with wide lines, they are either by ſome Member of the Houſe publickly preſented to the Speaker in the Houſe, with ſome ſhort ſpeech ſetting forth the needfulneſs of a Law in that behalf, or are delivered in private to the Speaker, or the Clark of the Parliament, to be preſented to the Houſe at ſome time convenient. And it is in the choice of the party to prefer his *Bill*, Firſt, into the Lords Houſe, or the Houſe of Commons which he liſt, and as he ſhall think it may moſt advantage his cauſe.

Many times upon the motion of ſome one of the Houſe (wiſhing a Law were made for proviſion to be had in ſuch a caſe) a Committee is purpoſely appointed by the Houſe to draw a Bill to that effect; which being done, one of them preſents it to the Speaker.

This is uſuall in caſes of great moment and difficulty.

The Bill for Subſidies is uſually drawn by ſome of the Kings Councill, after the ſubſtance thereof, for the number of Subſidies & fifteens to be granted,

and

and the times of payment is first agreed in the House. The preamble thereof containeth the causes of the grant, which is usually drawn by some principall member of the House, being a selected Committees for that purpose.

Bills for the Revival, Repeal or continuance of Statutes, are usually drawn by Lawyers, being members of the House, appointed thereunto by the House, upon some motion to that purpose made, which is usuall at the beginning of every Parliament.

Private Bills are usually drawn by Councellors at Law, not being of the House, and sometimes by those of the House (and that for their fees) which howsoever it hath been held by some to be lawful, yet it cannot be but very inconvenient, seeing they are afterwards to be Judges in the same cause.

A Bill hath been sent to the Speaker, signed by the hand of Queen *Elizabeth*, with speciall commandment to be expedited; but that is a rare case and very extraordinary: yet such was her Majesties favour to Sir *Thomas Perrot*, *in a Bill for his restitution in blood*,

bloud, as it appeareth by the Clerks Journall 35 Eliz. 26. Martii.

Such Bills as being firſt paſſed in one Houſe, are ſent unto the other, are alwayes ſent in Parchment fairly ingroſſed.

Thus much touching the firſt drawing and preſenting of Bills to the Parliament.

SECT. II.

Orders to be obſerved in preferring of Bills *to be read.*

Publique Bills are in due courſe to be preferred in reading and paſſing before private: and of publique, ſuch as concern the ſervice of God and good of the Church. Secondly, ſuch as concern the Common-wealth, in which are included ſuch as touch the perſon, revenue, or Houſhold of the King, Queen or Prince, and they ought ſpecially to be preferred in paſſing. Laſtly, private Bills ſhould be offered to be read and paſſed in ſuch order as they were preferred.

There

There have been oftentimes orders in the Houſe, that after nine of the clock, when uſually the Houſe groweth to be full, they ſhould not be troubled with the reading of any private Bill: And towards the end of the Parliament, when there remaineth many Bills in the Houſe undiſpatched, there hath been a ſpeciall Committee appointed to take a ſurvey of them, and to Marſhall them by their titles in ſuch order as they ſhould think fit; they ſhould be preferred to their paſſage, having reſpect to the importance of the matter which they concern.

It hath at ſome times been ordered, that every one that preferreth a private Bill, ſhould pay five pound to the poor, which was done 43. *Eliz. towards the end of the Parl. when they were troubled with much buſineſs*, but it holdeth not in other Parliaments.

In the Treatiſe de modo tenend. Parliament, which I have ſeen exemplified under the great Seal of *Ireland*, in the ſixth of *Henry* the fourth, teſtifying the ſame to have been ſent into *Ireland* by *Henry* the ſecond, for a form

of

of holding Parliaments in that King dom, of which I have a Copy, there is (touching the order of preferring of Bills) this clauſe found.

Petitiones ſunt affilate ſicut deliberantur, & ſic per ordinem leguntur & reſpondiantur, ſed primo determinentur quæ ad guerram pertinent, poſtea de perſona Regis & Reginæ & pueris ſuis, ac gubernationem eorum, & poſtea de communibus negotiis terræ; ſicut eſt de legibus faciend. & emendend. (viz.) *originalibus judicialibus & executoriis poſt judicium reddit, & poſt ſingulares petitiones ſecundum quod ſunt ſuper fidæriis.*

But the Speaker is not preciſely bound to any of theſe rules for the preferring of Bills to be read or paſſed, but is left to his own good diſcretion (except he ſhall be eſpecially directed by the Houſe to the contrary) and howſoever he be earneſtly preſſed by the Houſe for the reading of ſome one Bill, yet if he have not had convenient time to read the ſame over, and to make a breviat thereof for his memory; the Speaker doth claim a priviledge to defer the reading thereof to ſome other time. And

And thus much touching the order of preferring of Bills to be read or paſſed. Now followeth touching the reading or paſſing of them.

SECT. III.

Touching the firſt reading of Bills.

THe Clark being uſually directed by the Speaker (but ſometimes by the Houſe) what Bill to read, with a loud and diſtinct voice, firſt readeth the title of the Bill, and then (after a little pauſe) the Bill it ſelf; which done (kiſſing his hand) he delivereth the ſame to the Speaker, who ſtandeth up uncovered (whereas otherwiſe he ſitteth with his hat on) and (holding the Bill in his hand) ſaith, *this Bill is thus intituled*; and then readeth the title, which done, he openeth to the Houſe the ſubſtance of the Bill, which he doth, either truſting to his memory, or uſing the help, or altogether the reading of his Breviat, which is filed to the Bill, ſometimes reading the Bill it ſelf, eſpecially upon the paſſage of

of a Bill, when it hath been much altered by the Committees, so that thereby it differeth very much from the Breviat.

Tertia Sessione 1. *Parliament. Iac. Reg.* It was ordered, that the Committees which amended the Bill, should likewise amend the Breviat in the principal matters for the ease and direction of the Speaker.

When he hath thus opened the effect of the Bill, he declareth to the House, that it *is the first reading of the Bill*, and delivereth the same again to the Clark.

The Bill containing the Kings generall pardon hath but one reading in the Lords House, and one below: The reason is, because the subject must take it as the King will give it, without any alteration: and yet many times exceptions are taken at the reading thereof, for that it is not so favourable as in former times.

The like of the Bill of Subsidies granted by the Clergy.

That day that the Speaker being approved by the King, commeth down into the Commons House to take his place,

place, the cuſtom is to read for that time onely one Bill, left unpaſt the laſt Seſſions, and no more, to give him ſeiſin as it were of his place, 39 *Eliz.* 27 *Octob.*

The uſuall courſe is to ſpend the morning before the Houſe grow full in the firſt readings, and to defer the ſecond or third reading till the Houſe grow full.

At the firſt reading of the *Bill*, it is not the courſe for any man to ſpeak to it, but rather to conſider of it, and to take time till the ſecond reading; yet it is not altogether without preſident, that a *Bill* hath been ſpoken for, and againſt upon the firſt reading, which is very ſeldom, and onely in caſes where the matter of the *Bill* is apparently inconvenient and hurtfull to the Common-weale; and ſo not fitting to trouble the Houſe any longer; but at the firſt reading, no man in ordinary courſe ſhould ſpeak to any one part of the *Bill*, or for any addition; for thereby it is implyed, that the body of the *Bill* is good, which till the ſecond reading, doth not regularly come to the triall.

If

If any Bill originally begun in the Commons House upon the first reading happen to be debated to and fro; and that upon the debate, the House do call for the question, it ought to be not *whether the Bill shall be secondly read*, for so it ought to be of ordinary course, but *whether it shall be rejected* in this sort: *As many as are of opinion that this Bill shall be rejected* (say yea) *As many as are of the contrary mind* (say no) and the greatest number of voices shall carry it, 43 *Eliz.* 17. *November. The Bill against unlawfull hunting*, 5 *Sess. Jac. Reg.* 25. *Octob.*

If a Bill comming from the Lords be spoken against, and pressed to be put to the question upon the first reading: the Speaker in favour and respect thereto, should not make the question for the rejection, as in Bills originally begun in the Commons House upon the first reading, but should first make the question for the second reading: And if that be denied, then for rejection. *This course was usually held by Serjeant* Phillips, *when he was Speaker*. But usually when any such debate is upon the first read-

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ing of a Bill, the Speaker doth forbear to make any queſtion at all thereupon, except he be much preſſed thereto, for that it were fit better to conſider of it before it be put to ſuch a hazard.

If the queſtion for the rejection be made, and the greater voice be to have it rejected, the Clark ought to note it rejected in his journal, and ſo to indorſe it upon the back of the Bill, and it ſhall be no more read; if the voice be to have the Bill retained, it ſhall have his ſecond reading in courſe.

It is againſt the ordinary courſe, that the ſame Bill ſhould be read more then once in one day, yet for ſpeciall reaſons it hath been ſuffered, that private Bil's have been in one day read twice; *As in the aforeſaid caſe of Sir* Thomas Perrot, *though it were a private Bill; ſo was it likewiſe done in the Bill for the aſſurance of Lands given by Maſter* Sutton *for charitable uſes, becauſe he was taken then extreme ſick, and that it was doubtful, whether he might live while the Bill might have his paſſage in ordinary courſe.*

And it is likewiſe done ſometimes, when

when the House lacketh other businesses wherein to imploy themselves, especially if the Bill be of no great importance, howsoever it is never but upon motion and special order.

When special Committees appointed for the drawing of some one special Bill, present the same ready drawn unto the House: it hath been often seen, that the same Bill hath been not only twice read, but ordered also to be ingrossed the same day, *as it was in the Bill against counterfeit Seals*, 23 Eliz. 16 Feb. *And in the Bill against disobedience to the Queen*, 4 Martii *of the same Parliament.*

Neither is it without president, that a *Bill* hath been thrice read and passed in the same day; *as was the Bill of recognition of his Majesties title which came from the Lords*, 1 *Jac. Reg. Sess.* 1: but this is a president that standeth alone, and in that case it was resolved that the *Bill* might not be returned to the Lords without a copy first taken thereof by the Clark to be reserved in the Commons House.

SECT.

SECT. IV.

Touching the ſecond reading and committing of Bills.

A Bill may be preferred to be ſecondly read the next day after the firſt reading, but the uſuall courſe is to forbear for two or three dayes, that men might have more time to conſider upon it, except the nature of the buſineſs be ſuch that it requireth haſte.

After the Bill is ſecondly read, the Clark as before in humble manner delivereth the ſame to the Speaker, who again readeth the Title and his Breviat as he did upon the firſt reading; which done, he declareth that it was now the ſecond reading of the Bill, and then he ought to pauſe a while, expecting whether any of the Houſe will ſpeak to it; for before the Speaker hath ſo declared the ſtate of the *Bill*, no man ſhould offer to ſpeak to it; and then and not before is the time when to ſpeak.

If after a pretty diſtance of time, no man ſpeak againſt the Bill for matter

or

or form, he may make the queſtion for the engroſſing thereof, if it be a Bill originally exhibited into the Commons Houſe.

So likewiſe if divers ſpeak for the Bill without taking exception to the form thereof, he may make the ſame queſtion for the ingroſing. The like queſtion for the ingroſing ought to be made, if the greater voice be, that the Bill ſhall not be committed, for it were to no end further to delay the proceeding of the Bill, if there be no exception taken to the matter or form thereof, but upon the ſecond reading, and after the Speaker hath delivered the ſtate thereof, the Houſe doth uſually call for the committing of the Bill, and then if any man will ſpeak againſt it, either for matter or form, he ought to be heard.

After the firſt man hath ſpoken, the Speaker ought to reſt a while, expecting whether any other man will ſpeak thereto, ſo ought he likewiſe to do after every Speech ended, when he perceiveth that the debate is at an end, he ought then to make the queſtion for the committing thereof in this ſort;

As

As many as are of opinion that this Bill ſhall be committed ſay (yea.)

And after the Affirmative voice given, *as many as are of the contrary opinion ſay* (no.)

And he ought by his ear to judge which of the voices is greateſt; if that be doubtful, the Houſe ought to be divided touching the manner, whereof there ſhall be more ſaid in another place.

If upon diviſion of the Houſe it appears that the numbers are equal, the Speaker hath the caſting voice upon all queſtions.

If it appear that the affirmative voice be the greater, then ought he to put the Houſe in mind touching the nameing of Committees; which is done in this ſort:

Every one of the Houſe that liſt may call upon the name of any one of the Houſe to be a Committee, and the Clark ought in his journal to write under the title of the Bill the name of every one ſo call'd upon, at leaſtwiſe of ſuch whoſe names (in that confuſion) he can diſtinctly hear; and this he ought to doe without partiality

either to thoſe that name, or to the party named. But touching the naming of Committees, and their duties, more ſhall be ſaid in another Chapter.

But he that ſpeaketh directly againſt the body of the Bill, may not be named a Committee, for he that would totally deſtroy will not amend.

When a convenient number of Committees are named, then ought the Speaker to put the Houſe in mind to name time and place, when and where the Committees may meet, which the Clerk ought likewiſe to enter into his journal-book; and when the Houſe is in ſilence, he ought with a loud voice to read (out of his book) the Committees names, and the time and place of the commitment, that the Committees may take notice thereof.

After a Bill which is ſent from the Lords hath been twice read, the queſtion ought to be for the commitment; if it be denied to be committed, it ought then to be read the third time, & the next queſtion ought to be for the paſſage, & not for the ingroſſing, as it is where the bill originally begins in the

Lower

LowerHouſe; *for Bills which come from the Lords, come alwayes ingroſſed.*

This queſtion for the paſſage, ſhould in ordinary courſe be then made when the Bill is denied to be committed, but not till the Bill have been read the third time.

If that queſtion for paſſage be deferred till another day, it hath been much doubted whether it may then be offered to the paſſage; but upon debate of this point after many Arguments to and fro, *Anno* 27. *Eliz.* 18. *Februa. by the opinion of Sir* Francis Walſingham, *then one of the Houſe, and by order of the whole Houſe it was agreed it might be done.*

The Bil then in queſtion was, *The Bill againſt fraudulent conveyances. Fol.* 85, *&* 86. *in the Clerks book for that year, ſo it was done* 1. *Seſſ.* 1. *Parliament.* Jac. *Regis, for the Bill of hunting.* But this Precedent is not ſo ſafe, for the Houſe conſidering that oftentimes the Bill is denied to be committed upon utter diſlike thereof, after it hath been long debated; and yet if that rule ſhould hold, there may be a time picked out of great diſadvantage to the Houſe to

put it to queſtion for the paſſage.

In the debating of Bills in the Houſe no man may ſpeak twice in one day, except the Bil be ofter read then once, and then a man may ſpeak as often as the Bill is read; otherwiſe it is at Committees, or when in the Houſe the debate ariſeth upon ſome motion concerning the order of the Houſe; but touching the manner of ſpeaking, and what orders ſhall be obſerved therein, more ſhall be ſaid elſewhere.

When the Committees have fully reſolved touching the Bill, and the amendments thereof, one of them, by the conſent of all the reſt, ought to make report thereof to the Houſe, opepening the ſubſtance of the things amended, and the reaſons thereof; which done, he ought to bring the Bill ſo amended to the Clark, and to ſtand by the Clark all the while that the Clark is reading of the amendments, and ought to help the Clark in reading of the ſame, in caſe it be difficult to be read; which falleth out very often, by reaſon of interlining or ill writing.

The Clark ought to read every amendment and interlining twice, that

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ſo it may have as many readings as the reſt of the Bill hath had; and very many times it will fall out that the interlining and amendments ſo read by the Clark, will of it ſelf (without reading of the clauſe going before or following) be no ſenſe, yet notwithſtanding, the Clark ought only to read the new amendments without medling with any of the reſt of the Bill; for it is intended that the reporter hath declared to the Houſe the reaſon of the amendment, and the connexion thereof to the reſt of the Bill to make it ſenſe.

And it hath ſometimes been permitted (when the amendments have been many and ill written) that the whole Bill hath been firſt read, and *then the alterations by* themſelves.

The Bill of hoſtile Lawes, 3. Seſs. 5. Parliamen. Jac. Reg. 4. Junii, 1607.

After the amendments thus read, the Clark ought to deliver the Bill unto the Speaker, who (*holding the ſame in his hand*) ought again to read the Title thereof, and to put the queſtion, whether or no it be the pleaſure of the Houſe that the Bill thus amended ſhall be put to the queſtion for ingroſſing, &c.

then ought to pauſe a while, expecting whether any man will ſpeak to it or no; for it is as free for any man to ſpeak againſt the Bill at this time, though it hath paſſed the approbation of the Committees, as it was at the ſecond reading before the ſame was committed.

And after the debate is ended, the Speaker ought to put the queſtion for ingroſſing.

If the greater number of voices be that the Bill ought not to be ingroſſed, the Clerk ought to make an entry in his journal, that the ſame was daſhed; and ſo ought he likewiſe to note upon the back of the Bill, and the day when. If the voice be to have it ingroſſed, it is the office of the Clerk to do it.

It is alwayes to be obſerved, that when the Bill is ingroſſed, the Clerk ought to indorſe the title thereof upon the back of the Bill, and not within the Bill in any caſe.

So ought likewiſe ſuch Bills as come from the Lords to have titles ingroſſed upon the back of the Bill, and not within: In defect whereof, divers Bills coming from them, have been

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returned to be amended, as may appear by the Journals, 27 *Eliz.* 19 *Decemb.* 13 *E.* 27 *May*, 39 *E.* 24. *Octob.* 4. *Seſſ.* 1. *Parliament. Jac. Reg.* 5. *Maii.*

The Bill as it is amended by the Committees ought to remain with the Clerk for his Warrant, and it is not an ordinary courſe to cauſe the Bill ſo amended to be fairly written for the better ingroſſing thereof; yet hath it been ſeen that a Bill ill written in the amendments hath been returned to the Committees to be fairly written, and by them preſented to the Houſe; and upon the reading thereof ingroſſed, 27 *Eliz. fol.* 91. *in the Journal.* At ſome times it hath been ordered that a Bill ſo written ſhould be proceeded in as a new Bill, 23 *Eliz.* 28. *Feb.* 27. *Eliz. fol.* 91. *in the Clerks book or journal.*

After a Bill hath been committed and is reported, it ought not in an ordinary courſe to be committed, but either to be daſhed or ingroſſed; and yet when the matter is of importance, it is ſometimes for ſpecial reaſons ſuffered: But then uſually the recommitment is to

the ſame Committees. *The Bill againſt the Marſhallſea, 3. Seſs. 1. Parliament. Jac. Reg. 30. April, 1607. was committed and reported, and Counſell heard at the bar.* Whereupon it was recommitted, and other Committees added who altered the former proceedings; and it was agreed that the former proceedings were waved, and the latter good.

SECT. V.

Touching the third reading of Bills.

SOme two or three dayes after the Bill is thus ordered to be ingroſſed, and is accordingly ingroſſed, it is offered by the Speaker to be read the third time for the paſſage thereof.

For the moſt part the Speaker putteth not any one Bill to the paſſage by it ſelf alone, but ſtayeth till there be divers Bills ready ingroſſed for the third reading; and when he hath a convenient number (which may be five or ſix, rather leſs then more) then

then he giveth notice to the Houſe that he purpoſeth the next day to offer up ſome Bills to the paſſage, and deſireth the Houſe to give ſpeciall attendance for that purpoſe; and then the day following he doth accordingly put them to the third reading. First, private Bills, until the Houſe be grown to ſome fulneſs, and then he offereth to be read the publick Bills which are ingroſſed.

It hath at ſome times been ordered, for the preventing of carrying of Bills with few voices, that no Bils ſhould be put to the paſſage untill nine of the clock, at which time the Houſe is commonly full, or ſhortly after.

When the Bill is read the third time, the Clark delivereth it to the Speaker, who reads the title thereof, & openeth the effect of the Bill, and telleth them that the Bill hath now been thrice read, and that (with their favours) he will put it to the queſtion for the paſſing; but pauſeth a while, that men may have liberty to ſpeak thereto; for upon the third reading the matter is debated afreſh, and for the moſt part it is more ſpoken unto this time

then upon any of the former readings.

When the argument is ended, the Speaker (*ſtill holding the Bill in his hand*) maketh a queſtion for the paſſage in this ſort; *As many as are of opinion that this Bill ſhould paſs, ſay yea, &c.*

If the voice be for the paſſage of the Bills, the Clerk ought to make a remembrance thereof in his Journal; If otherwiſe, then his remembrance muſt be made accordingly. Upon the Bill thus paſſed (if it be the Bill originally exhibited in the Houſe of Commons) the Clerk ought to write within the Bill on the top towards the right hand theſe words, *Soit baille aux Seigneurs.*

If the Bill paſſed be a Bill originally begun in the Lords Houſe, then ought the Clerk to write underneath the ſubſcription of the Lords, which always is at the foot of the Bill, theſe words,

A ceſt Bille les Communs ſont aſſentus.

There are divers other forms of ſigning of Bills, ſometimes when new Additions are made, ſometimes when Proviſoes are added; of which more

more ample mention shall be made in the Chapter which treateth of *the duty of the Clerk*.

If the House see cause to amend any thing in a Bill originally begun in the Commons House upon the third reading thereof, and that the amendment thereof will not much deface the Bill, nor spend much time, the use is to cause the Serjeant to call in the Clerk that did engross it (being usually a servant to the Clerk of the House) and to cause him standing at the Table by his Master, in the presence of the whole House, to amend the same according to their direction. Sometimes if the amendments be but of a few words, it is done by the Clerk himself writing of a fair hand.

It hath sometimes been seen (wch is rarely yielded unto, and onely in Cases where the Bill to be passed is of good importance) that if a question grow for the amendment of some Clause, or for the making of some addition thereunto, that it hath been recommitted for the amendment thereof but then usually the Committees are appointed forthwith to withdraw themselves

themſelves into the Cõmittee-chamber, and preſently diſpatch the ſame.

The Bill concerning Rites and Ceremonies at the third reading was referred to be further conſidered of, 14 El. 20. *Maii, and in* 43 El. 2. *Decemb. The Bill to avoid double payment of debts*, 13. *Seſſ.* 1. *Parliament*. Jac. Reg. *Mr.* Bathweſts *Bill being ready for the queſtion to paſs, was deferred for eight days, that the other part might have notice, and then paſſed without further opening.* Quod nota.

No Bill upon the third reading, for the matter or body thereof, may be recommitted, as hath been ſaid, but for ſome particular Clauſe or Proviſo it hath been ſometimes ſuffered; and that difference was taken for a rule in *The Bill for Sea-ſands*, 4. Seſſ. 4. Maii 1610. *In the third Seſsions of the firſt Parliament of King* James, 12. *die Maii, the Bill of clothing being ingroſſed, and read the third time, exception was taken to the laſt Proviſo thereof, whereupon after much debate it was recommitted*; wch is to be obſerved as a thing unuſual after the third reading.

The next day it was returned again

gain by the Committees, with their opinions that they held it fit that a Proviſo therein ſhould be ſtruck out; whereupon the queſtion grew, whether the Proviſo being put to the queſtion alone, and rejected, the whole *Bill* ſhould not be daſhed thereby; at laſt reſolved no; whereupon the Proviſo being put to the queſtion and rejected, it was order'd it ſhould be raz'd out of the *Bill*, which was preſently done at the board by the Clerk, and the *Bill* was put to the queſtion, and ſo paſſed. The like in the *Bill concerning Wherrymen, the ſame Seſſion*, 18 *Maii* 1607.

It hath been much doubted, whether when a Bill is in debate for the paſſage, it ought not to receive the reſolution of the Houſe the ſame day wherein it is firſt offered to the paſſage; but there have of late been ſome Precedents, where the caſe being of ſome importance, & the debate growing long, the argument hath been put over till the next day, in which caſe he that hath alredy ſpoken to the *Bill* the firſt day may not again ſpeak the ſecond, no more then he may ſpeak twice in one day where the argument

is

is not deferred to another day.

If a Bill be rejected, the same Bill may not be offered to the House again the same Session; but if it be altered in any point material both in the body and in the Title, it may be received the second time.

In the time of the reading of a Bill, the House should not be interrupted with any other business; and yet in 1 *Eliz.* 24. *Maii*, the House adjourned it self till the next day after the Bill for sealing Clothes was half read, onely to be present at the conference about Religion in *Westminster*-Abbey.

Sometimes the House conceiving much offence against some Bills, doth not onely order them to be rejected, but to be torne in the House; as it was done in the Bill *to avoid Aliens not being here for Religion*, 1 Eliz. 23. Jan.

It hath been seen that two Bills being apt to be joined together, have by order of the House, after they have been twice read, been ordered to be ingrossed as one Bill, and so passed; which is somewhat strange, for that both being made into one Bill, it is there-

thereby become a new Bill; nevertheleſs it was ſo done in two Bills *concerning Treaſon*, 13 *Eliz.* 26. *Apr.*

When a Bill is thrice read and paſſed in the Houſe, there ought to be no further alteration thereof in any point. Nevertheleſs if it do appear that there be ſome apparent miſtakings therein, either by falſe writing, or otherwiſe, the Houſe upon notice thereof hath cauſed the ſame to be amended the day following, and reading the amendments three times, have again paſſed the Bill upon the Queſtion; which is a rare precedent, yet was it ſo done 25 *Eliz.* 20. *Januarii*, *Popham* being Speaker, which is a memorable Caſe.

Anno 23. *Eliz.* 14. *Martii*, the Lords ſent down a Bill *Touching the maintenance of the borders of* Scotland, the Houſe proceedeth with another Bill to the ſame effect; the Lords complain that it is againſt order ſo to do, without praying a conference with them; which was ſpoken by the Lords at a conference, and anſwered by the Committees of the Commons Houſe they might lawfully ſo do.

Sect.

SECT. VI.

Touching Proviſoes, Schedules, Amendments, and amendments of Amendments.

TOuching the offering and paſſing of Proviſoes, the courſe is thus; If any man will offer a Proviſo to a Bill originally begun in the Commons Houſe, it ought to be offered in Paper, as long as the Bill it ſelf is not ingroſſed; but when the Bill is once ingroſſed, it ought to be offered in Parchment, and not in Paper.

If a Proviſo, or Schedule of addition be offered to any Bill coming from the Lords at firſt or ſecond reading, it muſt be offered in Paper, and not in Parchment, though the Bill be a Bill ingroſſed, for that it may receive much amendment at the Committee; and when 'tis together with the Bill returned to the Committees, there ought to be a ſpecial queſtion made by the Speaker, whether the Proviſo ſhall be ingroſſed; if it be denied, he may put the Bill to the paſſage at the third reading without

out the Proviſo; if otherwiſe, then he ought to deliver the Proviſo to be ingroſſed, and ſome other day when the Proviſo is ingroſſed muſt put the queſtion upon the paſſage.

If it be offered at the firſt reading to a Bill begun in the Commons Houſe, which is ſeldom, it ought to be but once read at that time, and ſo filed to the Bill; If at the ſecond reading, it ought to be read twice, as the *Bill* it ſelf hath been, and ought to be committed together with the *Bill*; if it be offered at the third reading, the *Bill* being ingroſſed, it ought to be read three times before the queſtion be put for the paſſage of the *Bill*: but after every ſeveral reading thereof the Clerk ought to pauſe a while, to give men time to ſpeak thereto; many times upon the ſecond reading it is ſpoken unto, and ſometimes committed or amended at the board, ſometimes rejected without more reading: upon the third reading thereof the queſtion ought to be made whether or no the Houſe doth think fit to annex that Proviſo to the *Bill* read; which queſtion

queſtion ought to be made ſingly upon the Proviſo, and afterwards the queſtion ought to be made for paſſage of the Bill, together with the Proviſo annexed. If the Bill with the Proviſo annexed do paſs upon the third reading, the Clerk ought to ſign the ſame in this ſort upon the Bill towards the right hand:

Soit baille aux Seigneurs avecque un proviſion annex.

And ought to ſign the Proviſo it ſelf,

Soit baille aux Seigneurs.

The like rules here given for Proviſoes are to be obſerved, when any Addition (which alwayes containeth in it another Clauſe) or Branch of the Bill is deſired to be enacted, and offered by any of the Houſe, with this difference; that whereas the Clerk in Caſe of a Proviſo maketh mention of the Proviſo annexed, he ought in this Caſe to write, *avecque un Schedule annex*. for that which containeth an Addition is called a Schedule. After a queſtion

queſtion propounded in the affirmative upon the paſſage of a Bill, and before the queſtion for the negative part, a Proviſo was offer'd, and judged to be received, 1 *Jacobi* 13. *Jun.* 1604. Such Bills as come from the Lords have their paſſage in the Commons Houſe by three readings, as well as thoſe that originally begun there; when they are committed, and the Committee ſee cauſe to make ſome amendment in them, they ought not to interline or raze, or make any other alteration in the Bill it ſelf, as they do in their own Bills, but in a paper thereto annexed they ought to expreſs in what line, and between what words they deſire the amendments to be made, which they ought to return up to the Houſe. If upon the report thereof the Houſe ſhall approve the doings of the Committees, then ought the Bill with the Paper aſſixed to be ſent to the Lords Houſe, to be accordingly amended by the Lords, if they ſhall ſo think good. So likewiſe ought the Lords to do where they deſire alterations in any Bill paſſed from the Commons Houſe unto them. And in this Caſe after the

the amendments read three times, the queſtion ought firſt to be put, whether the amendments ſhall accordingly be aſſented unto. Secondly, for the paſſage of the *Bill*, with the amendments (if it paſs) the Clerk ought to ſign it in theſe words underneath the ſigning of the Lords at the foot of the *Bill*,

A ceſt Bille avecque les amendments les Communs ont aſſentus.

When the Lords ſend down amendments they ought to be read two times, and then if excepted unto, put to the queſtion for the committing. If they be approved by the Committees, and ſo reported, then ought the queſtion to be put for the amendment of the *Bill* accordingly.

Anno 29 *Eliz.* 25. *Decemb.* the *Bill touching Labourers*, paſſing firſt from the Commons Houſe, was ſent from the Lords with amendments in Parchments, and the Parchments formally indorſed, *Soit bailie aux Communs*; to which exception being taken, there was much contention about it between the Houſes, and Precedents ſought up; and at laſt re-

reſolved it ought to be in Paper, without any indorſement at all: otherwiſe it is where there is a Schedule of additions, or a Proviſo annexed, for they ought alwayes to be ſent in Parchment; the Journal-book in this place handleth this point at large.

If there be cauſe to make alteration in ſome Proviſo or Schedule ſent from the Lords, the amendment ought to be tendered in Paper, and ſo paſſed to the Lords, 3 *Seſ. Jac. Reg.* 30, *Junii.*

If beſides the amendments a Proviſo be added thereunto, or a Schedule of additions, there ought to be mention thereof made by the Clerk in the ſigning of the *Bill.*

If the Commons Houſe paſs a *Bill* ſent from the Lords with ſome additions by way of Schedule (which ever containeth ſome new Clauſe, or entire branch added to the *Bill*) or with ſome Proviſo to be added thereto, the ſame ought to be ſign'd as a new *Bill*, *Soit baille aux Seigneurs.*

For the omiſſion of which the Lords conceiving that they have not had

had warrant to proceed, thereupon have returned the ſame to the Commons Houſe to be amended, and the ſame hath been reformed accordingly, *In the Bill againſt ſcandalous rumours, 23 Eliz. 8. Mart.*

If the Lords do abſolutely diſallow of any thing required by the Commons Houſe to be put out, or of any addition or alteration to be made by way of amendment, the Bill can then have no further proceeding; for if the Commons ſay, *put out*, and the Lords ſay, *let it ſtand as it was*, the ſame being before determined by queſtion in the Commons Houſe, cannot be brought to the queſtion again, *23 Eliz. 9. Mart. The Bill of Scandalous Rumours, &c.* But if the Lords, for explanation of ſuch a ſentence as is in queſtion, do adde words to the additions of the Commons, without putting out of any part of that which is required to be added or altered by the Commons, the ſame being ſet down in writing by the Lords, and ſent to the Commons together with the Bill, if the Commons do allow thereof, they are to adde the words required by

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the Lords Paper, and to inſert the ſame into their own Paper, and ſo return the ſame to the Lords; who thereupon ought to enter it into their Bill ingroſſed, and ſo the Bill hath his paſſage. The like in all points *mutatis mutandis*, in Bills originally begun in the Commons Houſe, and ſent to the Lords; but if to the Bill coming from the Lords, any Proviſo or entire new matter be added by the Commons (becauſe it is adjudged as a new Bill) and hath not been at the queſtion in both Houſes, the Lords may by their Paper require to have part thereof put out, or may offer additions therunto; which being returned to the Commons, and they giving allowance thereof, they are accordingly to amend the ſame in their own houſe, without ſending it back to be amended by the Lords; for *amendments ought alwayes to be in that Houſe from whence the thing to be amended originally proceedeth, though the directions for the amendments came from the other Houſe*; and ſo *mutatis mutandis*, in Proviſoes or other entire Additions required by the Lords to be added to

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any Bill proceeding from the Commons : And *it is held for a general rule, that neither Houſe may of themſelves put out any thing which they have before paſſed, otherwiſe then requeſted by the Houſe which hath not paſſed the ſame : In the Parliament* 31 Eliz. *when Mr.* Snagge *was Speaker, it was uſual, when either Houſe deſired the clear paſſage of any Bill ſent unto them from the other Houſe, in which they thought fit to make alterations, to acquaint the Houſe from whom it came with the alterations which they intended to make, and to deſire to know their willingneſs thereto, thereby to prevent the hazard of the Bill, if perhaps they ſhould make alterations not approved of. In like ſort they ſometimes uſed conferences onely, to prevent the caſting away of Bills for ſome ſmall difference about the amendments. See for this the Clerks Book of the Parliament* 21 *Martii, and* 27 Elizab. 10. *Martii, the Bill againſt Jeſuits : The like* 23. Eliz. 17. *Martii, the Bill againſt Seditious Rumours. Anno* 23. Eliz. 24. *Martii, In the Bill for the better government of* Weſtminſter, *the*

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Commons at the requeſt of the Lords do alter their own amendments. The like was done by the Lords at the requeſt of the Commons upon a conference for that purpoſe, *In the Bill of Hoſtile laws 3. Seſs. 1. Parl. Jac. Reg. 29. Junii 27. Eliz. 22. Feb.* The Lords by a Meſſage without any paper ſent unto them, have bin prayed by the Commons Houſe to amend the ſenſe of ſome of their amendments, that ſo the Houſe might further proceed therewithall, which hath accordingly been performed, and then their amendments have been conſidered, allowed and returned, 23. *Eliz. 17. Martii, In the Bill touching Scottiſh orders.*

In the Bill againſt vagabonds, 13. *Eli.* It was reſolved, that certain words required by the Lords to be put out, ſhould not be put out of the Bill, but ſtayed ſtill in the ſame, qualified with other words; with condition, that if the Lords ſhould not agree to the ſaid qualification, the Houſe would not be bound by the ſaid reſolution; which was done of purpoſe to avoid the hazard of the Bill, in caſe the Lords ſhould not agree thereto.

When amendments of any Bill coming from the Lords are returned by the Committees, or otherwise added by the House, they ought presently to be read three times before they be put to the passage with the Bill. *In the Parliament 13. Eliz. at the third reading of a Bill which came from the Lords,* an addition in paper was by question affiled to it; the addition having been but once read, the Bill was put to the question, and the House divided upon the passage; the error being espied, after long argument thereupon, the additions were ordered to be read twice more, and the Bill was again put to the question, and passed: *this was the Bill against taking up of provisions within five miles of Oxford, which passed 25. May, in the Parliament, Anno 2. & tertio P. & M. The Bill for exactions at musters* had a Proviso annexed by the Commons House, and the Lords returned the Bill, desiring the Proviso annexed might be taken off, and a new devised by themselves put in the place thereof.

Anno 27. Eliz. 5. Feb. The Lords having made additions to a Bill passed from

from t heCommons Houſe, the Commons pray conference with them, and deſire that they themſelves may have leave to make a further addition to their own Bill, or that the Lords would be pleaſed to ſupply the ſame with an addition of theirs; which the Lords refuſed to do, becauſe they found no ſuch precedent, *Anno* 27. *Eliz. Fol.* 81. *in the Journal, The Bill againſt fraudulent conveyances* paſſed fro n theLords, was u pon the ſecond reading refuſed by the Houſe to be committed; whereupon the Lords craved a conference, and ſhewed it was a Bill which her Majeſty called her Bill, drawn by her Councel, with the advice of her Judges, and therefore wondred at the proceedings of the Houſe; and concluded, that they expected and deſired that the Houſe would take it into their further conſideration; afterwards the Houſe by a ſpecial Committee praying their Lordſhips to joyn in Petition to the Queen about matters of Religion, cauſing the meſſengers to ſtay in the painted Chamber, after a while ſent out unto them the chief Juſtice and others, to tell them, that when they

received an anſwer from the Houſe touching the Bill of fraudulent conveyances, the Houſe ſhould have an anſwer touching the Petition.

*An.*27.*Eliz.*10.*Mar. Fo.*130. *in the Journall*, to the Bill againſt Jeſuits, which paſſed from the Commons Houſe, there were ſome amendments deſired to be made by the Lords; the Commons by meſſage deſire the Lords to reform their deſired amendments in ſome points, which the Committees for the Lords thought could not be done by order; but the Commons Houſe reſolved it might be well helped by a Proviſo in the Commons Houſe; and choſe rather to take that courſe, then further to urge their Lordſnips therein.

Anno 27. *Eliz.* 13. *Mar. The* Bill *touching the Sabbath*, which upon divers conferences of the Houſes received divers additions, alterations and amendments of amendments, and by that meanes was much defaced, was ſent down by the Lords, and prayed by them that it might be new written, which was done; and ſo it paſſed again in both the Houſes.

Anno

Anno 25. *Eliz.* 31. *Mar. The Bill againſt Popiſh Recuſants*, Firſt, paſſing from the Lords, was returned with amendments; which the Lords aſſented to, and ſent down the ſame again amended by them accordingly, and ſo a Proviſo annexed thereto to be paſſed, if the Houſe ſhould think good, which was yielded to; and the Proviſo being thrice read, was with the Bill paſſed accordingly, 6. *Apr.*

This is a very remarkable Precedent, *That a Proviſo ſhould be added by them who firſt paſsed the Bill, and not to have any Reference to any alteration or amendment inſerted by direction from the other Houſe.*

When amendments are deſired by the Lords to a Bill paſt from the lower Houſe, and thrice read, the queſtion ought to be, whether the Houſe will be pleaſed to admit of thoſe amendments; and that being yielded unto, the Bill it ſelfe ought not againe to bee put to the queſtion.

If it be reſolved to allow the amendments, the alterations are uſually made by the Clarks ſervants ſitting

without the Parliament-door, according to the direction in paper annexed to the Bill; and the Clark is trusted with the examination thereof.

In the fourth Session of the first Parliament of King James, it was conceived by some of the Commons House, that by reason that Bills which are passed in both Houses, and oftentimes razed in either House, and no mention made any where of such razures lawfully made, that it might give occasion to persons ill-disposed to make razures in Bills past, much to the prejudice of the Commonwealth; it was therefore moved, that the L. Chancellor for the upper House, who supplies the place of Speaker there, and the Speaker in the house of Commons, should subscribe their hands to every Bill so razed; and that mention should be made upon the Bill of all the razures therein; but this motion was not further prosecuted.

SECT.

SECT. VII.

Touching the ſending of Bills *from one Houſe to the other.*

WHen the Speaker hath in his hands a convenient number of Bills ready paſſed, as five or ſix, or thereabouts, he then putteth the Houſe in minde of ſending them up to the Lords, and deſireth the Houſe to appoint Meſſengers, who accordingly do appoint ſome one principall member of the Houſe for that purpoſe, to whom the Bills are delivered in ſuch order as he ought to preſent them to the Lords; which is done by direction of the Speaker; except the Houſe be pleaſed to give ſpecial direction therein.

The order which hath uſually been obſerved in ranking of them, is, Firſt, to place them that came originally from the Lords.

Secondly, thoſe that being ſent up unto the Lords from the Commons Houſe, were ſent back to be amended.

Thirdly, publique Bills originally comming from the Commons Houſe, and they to be marſhalled according to their degrees in conſequence.

Laſtly, are to be placed private Bills in ſuch order as the Speaker pleaſeth.

Many times the Houſe (with a purpoſe ſpecially to grace ſome one Bill) ſendeth it alone ſometimes with a ſpecial recommendation thereof: The meſſenger for this purpoſe is uſually attended by thirty or forty of the Houſe, as they pleaſe, and are affected to the buſineſs.

In the Parliament *Anno* 31. *Eliz.* *Mar.* *A private* Bill *for the relief of one Thomas Haſelridge* being paſſed the Commons Houſe, was ſent up only with four or five meſſengers; to which the Lords taking exceptions, returned the Bill, ſaying, they had cauſe to doubt that it paſſed not with a generall conſent of the Houſe, becauſe it paſſed not graced with a greater number, and left it to the conſideration of the Houſe to ſend it back in ſuch ſort as was fit. The principall meſſenger which delivered the Bills to the Lords comming in the firſt rank

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of his company to the Barre of the Lords Houſe, with three congees telleth the Lords, that the Knights, Citizens and Burgeſſes of the Commons Houſe have ſent unto their Lordſhips certain Bills; and then reading the title of every Bill as it lieth in order, ſo delivereth the ſame in an humble manner unto the Lord Chancellor, who of purpoſe commeth to the Barre to receive them.

Bills ſent from the Lords to the Commons Houſe, if they be ordinary Bills, are ſent down by Sergeants at Law, or by two Doctors of the civill Law, being Maſters of the Chancery, and being attendants in the upper Houſe, accompanied ſometimes with the Clark of the Crown, an attendant there.

Bills of greater moment are uſually ſent down by ſome of the Judges aſſiſtants, there accompanied with ſome of the Maſters of the Chancery, who being admitted entrance, do come up cloſe to the Table where the Clark ſitteth, making three congies; and there acquainting the Speaker, that the Lords have ſent unto the Houſe

certain Bills, doth read the Title, and delivers the Bills to the Speaker, and ſo again departeth with three congies: when they are out of the Houſe, the Speaker holdeth the Bills in his hands, and acquainteth the Houſe, that the Lords by their Meſſengers have ſent to the Houſe certain Bills; and then reading the Title of every Bill, delivereth them to the Clark to be ſafely kept, and to be read when they ſhall be called for.

Bills originally preferred to the Lords Houſe, have ſuch proceeding in that Houſe in all points, as Bills preferred to the Commons Houſe have there; onely when any queſtion is made in the Lords Houſe, the triall thereof is by ſaying, Content, or not content; and if that be doubtfull, then by telling the Poles, without dividing the Houſe.

SECT.

SECT. VIII.

Touching the Royall Assent.

WHen Bills are thus passed by both the Houses, upon three several readings in either House, they ought (for their last approbation, that so like to silver, they may be seven times purified) to have the Royall Assent, which is usually deferred till the last day of the Session: But it may be given at any time during the Parliament; touching which it hath been much doubted, and oftentimes debated, whether the Royall Assent given to any one Bill, doth not *ipso facto* conclude that present Session; which question is of great consequence; for if thereby the Session be at an end, then ought every other Bill not having the Royall Assent (though it hath passed both the Houses) to be again there read three times in either House, and to have the same proceedings as at first, as if nothing had been formerly

ly done therein; ſo muſt it be of all other Acts of the Houſe. But *in the laſt Seſsion of the firſt Parliament of King* James, *the Houſe being then deſirous to have a Bill to be forthwith paſsed, declared, that the Royall Aſsent to one Bill or more did not diſsolve the Seſsion, without ſome ſpeciall Declaration of his Majeſties pleaſure to that purpoſe*, 8. Aprill 1604. in the Journall.

So likewiſe it appeareth by the *Journall* 1. & 2. *Phil.* & *M.* 21. *November, that the King and Queen came of purpoſe into the Parliament Houſe to give their Aſsent to Cardinal* Pooles *Bill.* And upon queſtion made, it was then reſolved by the whole Houſe, that the Seſſion was not thereby concluded, but that they might proceed in their buſineſs, notwithſtanding the Royall Aſſent given; but for more ſecurity it is uſuall to inſert a Proviſo to that purpoſe.

At the giving the Royall Aſſent, it is not requiſite that the King be preſent in perſon; for by *expreſs words of the Statute of* 33. *of Hen.* 8. *Ca.* 21. *The Kings Royall aſsent by his Letters*

ters Patents under the Great Seal, ſigned by his hand, and declared and notified in his abſence to the Lords Spiritual and Temporal, and to the Commons aſſembled in the higher Houſe, is and ever was of as good ſtrength and force as though the King had been there perſonally preſent, and had aſſented openly and publickly to the ſame; according to which Statute the Royal Aſſent was given by Commiſſion, *Anno* 38. *H.*8. *unto the* Bill *for the Attainder of the Duke of* Norfolk, and very oftentimes ſince.

The Royal Aſſent is given in this ſort; After ſome ſolemnities ended, of which mention ſhall be made in the Chapter which treateth of the concluſion of the Parliament, the Clerk of the Crown readeth the title of the *Bills* in ſuch order as they are in conſequence; after the title of every *Bill* is read, the Clerk of the Parliament pronounceth the Royal Aſſent, according to certain inſtructions given him from his Majeſty in that behalf.

If it be a publick *Bill* to which the King aſſenteth, the anſwer is, *Le Roy le veult.* If

If a private *Bill* allowed by the King, the answer is, *Soit fait comme il est desire.*

If a publick *Bill* (which the King forbeareth to allow) *Le Roy se aviser-a.*

To the Subsidie-*Bill*,

Le Roy remercy ses loyaux Subjects, accept leur benevolence, & aussi le veult.

To the General Pardon,

Les Prelates, Seigneurs & Commuus en ceste Parliament assembles au nom de toutes vous autres subjects remercient treshumblement vostre Majesty, & prient Dieu vous donner en sante, bone vie, & longe.

And thus much concerning passing of *Bills* according to the modern practice: in ancient times the practice was much differing, as elsewhere shall be declared; but that ancient order, as it was nothing so curious as this, so was it not so safe for the Subject, as by comparing both together will easily appear.

A Report of divers memorable paſſages between both Houſes in the Parliament 18 Eliz. *concerning the adding of a Proviſo by the Commons unto a* Bill *ſent to the Lords, ingroſſed, and ſigned by the Queen, and paſſed by the Lords, for the reſtitution in blood of a certain Lord, and ſent down by the Lords to the Houſe of Commons.*

A Noble Lord, whoſe father was attainted of murther, (and thereby his bloud corrupted) made ſuit to the Queen to be reſtored in bloud by Parliament; which ſhe inclined unto, and in declaration of her good liking thereof, ſigned his *Bill* ingroſſed, which paſſed the Lords Houſe, and was ſent down to the Commons.

The *Bill* upon the ſecond reading by ſome was impugned, through miſtake of the perſon, and by ſome others, for that there wanted a Proviſo for Purchaſers from his Father and other Anceſtors.

To the firſt it was anſwered, that ſee-

seeing her Majesty had signed the *Bill*, no doubt she was satisfied touching the person; and he being a young Noble man, there was great hope of him.

To the second, that if the saving (which was already in the *Bill*) were not sufficient, there might be other provision.

The *Bill* was committed, and the Committees thought to adde a Proviso to barr the Lord, that he should not take advantage of any errors in any Fine, or other conveyance by his Father or Ancestors, but should be in that case as though his bloud were not restored, in which state he can bring no Writ of Error: the occasion of which Proviso grew chiefly, for that the Lords had within few days before in this Session dashed a *Bill* that passed in the Commons House for the helping of such errors; whereupon they thought it dangerous to give that scope to any man that should be restored in bloud; and therefore they added such a Proviso both in this *Bill* and other *Bills* of like kind.

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The ſaid Lord endeavoured by his Counſel to ſatisfie the Committe, that the ſaving in the Bill was ſufficient without a new Proviſo; but they being not ſatisfied therewith, he procured a meſſage from the Lords to the Commons, that the Bill might paſs in ſuch ſort as was ſigned by the Queen without any addition, which they thought could not be made without the conſent of her Majeſty; which meſſage was ſent after the Committees had agreed upon the Proviſo, and reported the ſame to the Houſe. The Commons took this manner of dealing to be very ſtrange, not having heretofore received any ſuch meſſage from the Lords, tending to preſcribe them what they ſhould do in the actions of that Council; and notwithſtanding that meſſage, intended to proceed as they had begun.

The next day the Lord procured another meſſage from the Lords, deſiring a meeting and conference with the Commons about it; which meſſage, the Commons conceiving it ſtrange to be in this manner preſſed,

sed, they gave the *Bill* a third reading, and the new Proviso, as the course is, and so sent up the *Bill* to the Lords with the Proviso annexed, with one other *Bill*.

Herewith the Lords were greatly moved, and the same afternoon sent a message to the Commons House by Mr. Justice *Munson*, and Serjeant *Barham*, that some of them should come to speak with certain of the Lords in such matters as they had to say to them, and to the Commons House; according to which message certain of the Commons House were appointed, and did give attendance, on the morrow morning between eight and nine of the clock in the Painted Chamber, sending in word by the Usher of their being there.

The Lords, after a great pause, at last came forth into the Painted Chamber; the number of them were many, and the persons of the principal Noblemen of that House: after they had taken their places at a long table, and used some conference amongst themselves, they called for those of the Commons House, to whom

whom the Lord Treaſurer, in the name of all the reſt preſent and abſent, ſaid in effect;

That the Lords of the Upper Houſe could not but greatly miſlike the dealing of the Commons Houſe in their paſſage of that *Bill*, eſpecially for that they had paſſed the *Bill* with a Proviſo annexed, notwithſtanding their ſundry meſſages ſent to them in his favour; and laſtly, one meſſage to have conference with them for reſolution of ſuch doubts as were moved; wherein they took themſelves greatly touched in honour, and thought that the Commons Houſe did not uſe that reverence towards them as they ought to do. The cauſe beſides, (he ſaid) was ſuch as they ſaw no reaſon why the Commons Houſe ſhould proceed in that order; for the *Bill* being ſigned by her Majeſty (he ſaid) none might preſume to alter or add any thing to it without the aſſent of her Majeſty, which they for their parts durſt not do; for proof whereof he ſhewed the Committees ſundry Proviſoes in the time of King *H.* 8. annexed to the like Bill ſigned by

by the King, inferring thereby that none might paſs otherwiſe; moreover he ſaid that by the opinion of the Judges which were in the Upper Houſe, the ſaving which was in the Bill was ſo ſufficient as there needed no addition of ſuch Proviſo as the Commons Houſe have annexed; and therefore required them to know what reaſons did lead them to proceed in this order.

This and ſome other large ſpeeches being uttered to this end, the Committees anſwered, *That their Commiſſion was only to hear what their Lordſhips would ſay; they would return and make report to the Houſe, and ſo attend upon them again with anſwer.*

When this was reported to the Commons Houſe, it moved them all greatly, and gave occaſion of many arguments and ſpeeches, all generally miſliking that kind of dealing with them, and thinking their liberty much trenched upon in three points; *One, that they might not alter or add to any* Bill *ſigned by the Queen; Another, that any conference ſhould be looked for the bil remaining with them, except themſelves*

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ſaw cauſe to deſire it: And the third, to yield a reaſon why they paſſed the Bill *in that ſort.*

After all theſe things were ſufficiently debated, an anſwer was agreed upon to be returned to the Lords by the ſame Committees, and they gave their attendance upon the ſame Lords in the ſame place, to whom was ſaid in effect by one of the Committees, and by the conſent of the reſt,

That they had delivered to the Commons Houſe the ſenſe of that which their Lordſhips had ſaid unto them, which as they had conceived, did ſtand upon two parts; One on the manner of their proceeding in this caſe; And the other on the matter wherein they had proceeded.

To both which they had commiſſion from the Houſe to make unto their Lordſhips this anſwer:

Firſt, *That they were very ſory that their Lordſhips had conceived ſuch an opinion of the Houſe, as though they had forgotten their duty to them; praying their Lordſhips to think that the Commons Houſe did not want conſideration of the Superiority of their ho-*

honourable estate, in respect of their honourable calling, which they did acknowledge with all humbleness; protesting that they would yield unto their Lordships all dutiful respects, so far as the same was not prejudicial to the Liberties of their House, which it behoveth them to leave to their posterities in the same freedom they have received them.

And touching the particular Case, the manner of their proceedings (as they think) hath not been any way undutiful or unseemly.

For the Bill *being sent from their Lordships to the Commons House, received there (within little space) two readings; and because upon the second reading, some objections were made to lett the course of the* Bill, *the House thought fit to commit it; which doth shew that they had no disposition to overthrow the* Bill, *but to further it, both in respect of her Majesties signature, and that it came passed from their Lordships; and whether the Lord whom it concerned had cause or not to think himself favourably used in being heard by the Committees with his learn-*

learned Counſel, they referred to their Lordſhips judgments. That after the Committees report of their doings, the Houſe gave the Bill *a third reading, and ſo paſſed the ſame in ſuch ſort as now their Lordſhips hear it, notwithſtanding their ſundry meſſages to the contrary; And laſtly, notwithſtanding their meſſage of conference, they ſaid they could not otherwiſe have done without breach of their liberties, for they took the order of* Parliament *to be, that when a* Bill *is paſſed in either Houſe, "that Houſe wherein the "Bill remaineth may deſire conference "with the Houſe that paſſed the* Bill, *"if they think good, but not otherwiſe; and this* Bill *paſſing from the Lords to the Commons Houſe, they might deſire conference; but not their Lordſhips, the* Bill *paſſing from themſelves.*

And thus much for the manner of their proceedings; touching the matter wherein they have proceeded, in that they annexed a Proviſo to this Bill, *"the ſame being ſigned with her Ma-"jeſties hand, they thought they might "lawfully do it without her Majeſty, "taking her ſignature to be onely a re-*

"com-

"commendation of the cauſe to both the "Houſes, without which they could not "treat of any Bill *of that nature; the "Houſe not being thereby concluded, but "that they might alter or adde any "thing that ſhould be thought meet "either for her Majeſty or the Sub-"ject: which Proviſo they have de-livered upon good conſideration, not haſti-ly and inconſiderately, but upon great and ſufficient reaſons moving them, praying their Lordſhips ſo to conceive it: "Nevertheleſs to declare the rea-"ſons in particular to their Lordſhips, "as they were required on that part, "the Houſe deſired their Lordſhips to "bear with them, for that were to yield "an account of the doings of things "paſſed in their Houſe, which they "could not in any wiſe agree unto, be-"ing ſo prejudicial to their liber-"ties.*

This ſpeech finiſhed, the Committees were willed by the Lords to return unto the nether end of the Chamber; and after ſome pauſe and conſultation amongſt the Lords, they called again the Committees, and to them

them was ſaid by the Lord Treaſurer, that the Lords had conſidered the anſwer that the *Committees* had brought to them from the Commons Houſe; and touching the firſt part thereof, he ſaid, that although through ſuch information as was given them, they might have cauſe to conceive amiſſe of the Houſe in the manner of their proceedings, yet becauſe themſelves were the trueſt reporters of their own actions, and the beſt interpreters of their own meanings, the Lords did therefore accept thereof, and reſted ſatisfied with the ſame.

But touching the other part, he once again preſſed the Committees to ſhew cauſe why the Houſe added that Proviſo which the Lords took to be ſuſpitious; the Bill (as he ſaid) containing in it a ſaving that was ſufficient for all cauſes that might happen.

To that was ſaid by one of the Committees, that they *humbly thanked their Lordſhips that it pleaſed them to accept of their anſwers to the firſt part; but for the ſecond, which concerned the matter it ſelf, and the reaſons that moved the Houſe, he ſaid, the Committees*

had no further authority to deal in, having only commiſſion to deliver to their Lordſhips the anſwers which they received from their Houſe.

Whereupon the Aſſembly brake up, the Lords returning to the higher Houſe, and the Committees to their Houſe; where at their coming, one of them reported their whole proceedings with the Lords, wherewith the Houſe was much ſatisfied, ſeeing that ſo great a ſtorm was ſo well calmed, and the liberties of the Houſe preſerved; which otherwiſe in time to come might have been prejudiced in thoſe three points before remembred, which are indeed, if they be well conſidered, of great weight and importance.

The Bill (as it appeared after) *paſſed no further*; the Lords not liking the Proviſo, nor the Commons Houſe yielding to the withdrawing of it, for the cauſes afore declared.

Com

Concerning amendments of Bills *in the Journall of* 31. Hen. 8.

Die Veneris 23. die Maii existent. 15. Parliamenti.

A Bill passed both Houses in one day.

HOdie per Dominum Vicegerent, quædam introducta est Billa concedens Reg. Majestati authoritatem constituendi Episcopos in diversis locis hujus Regni sui, quæ quidem *Billa prima, secunda & tertia vice lecta traditur Regis Attornato in Domum Communem deferend. & immediatè per ipsos de Domo Communi relata & expedita.*

Die Martis 24. die Junii 20. die Parliamenti poſt prorog. &c.

A Bill *by Aſſent amended after it had paſſed both Houſes.*

MEmorandum quòd hodierno die concordatum eſt inter Proceres & Communes, quòd cùm in Billa concernente ſtabiliamentum o, inionum, inactitatum ſit ut hujuſmodi ſacerdotes qui antehac uxores duxerint eaſdem ante feſtum Sancti *Johannis Baptiſtæ* (qui hodierno die eſt) repudiarent, ut nunc alter dies illis ad eaſdem repudiend. limitaretur, qui eſt duodecimus dies inſtantis menſis Junii, & ut *eadem Billa indicta ſententia traderetur & emendaretur*. Quod nota.

Die

Die Sabbati 28. die Junii 24. die Parliamen. poſt prorog. &c.

Concerning the adding of a Proviſo by the Commons to a Bill *by them ſent up.*

MEmorandum quòd immediatè poſt deceſſum præfati *Willielmi Kingſton* & aliorum, *Richardus Riche Miles*, Cancellarius augmentationis reventionum coronæ Domini Regis, & alii de Domo inferiori proceribus declaraverunt, eos *Regiam Majeſtatem conveniſſe, illique ſupplicaſſe, quatenus eis liceret, annectere billæ concernenti punitionem eorundem qui accipitres, damas, aut cuniculos ſuæ Majeſtati pertinentes furaciter capient, proviſionem quandam limitantem tempus accuſationis pro tranſgreſſoribus ejuſdem Billæ, Regiamque Majeſtatem eis Petitionem ſuam hac in parte conceſſiſſe*; verùm priuſquam in Domum Communem reverſi ſint, dictam Billam per *Willielmum Kingſtone* militem

& alios ad Proceres fuisse allatam. Itaque præfatus *Richardus* Proceres (nomine Communitatis) rogavit, ut vel prædictam Billam illis remitteren-, ut illi hujusmodi provisionem eidem annecterent, aut ut illis placeret talem provisionem componere, & eam dictæ Billæ annex. in Dom. Commun. mittere, cui per Dominum Canc. ex assensu Procerum responsum est, quod si præfatus Richardus hujusmodi provision. componeret, eandemque Proceribus afferret, illi circa eandem procederent prout inde causam cernerent.

A Ca-

A Catalogue of the Names of the Speakers of the Commons House of *Parliament*.

IN the Reign of *William Rufus* there was a great Councell of Parliament held at *Rockingham*, as may be collected out of the Hiſtory of *Eadmerus*, for he termeth the ſame; *Totius Regni Adunatio* and ſaith, that a certain Knight came forth and ſtood before the people, and ſpake in the name and behalf of them all, whereby the mind and conſent of the people was underſtood, who (as is conceived) was the Speaker of the Commons; but the Author nameth him not: this is mentioned onely becauſe of the antiquity thereof.

Petrus de Mountford. 44 *H.* 3.

That he was Speaker of the Houſe of Commons may be collected out of the Regiſter of St. *Albane, Fol.* 207. where it is ſaid, that he *Vice totius communitatis* conſented to the baniſhment of *Adomar de Valence*, Biſhop of *Wincheſter*; by which alſo it may be conceived, that the Lords and the Commons in that time ſate in ſeverall Houſes, or at leaſtwiſe gave their aſſents ſeverally.

Scroops. 6 *Ed.* 3.
Monſieur *William Truſſel.* 13 *Ed.* 3.

The Commons anſwer by his mouth, and therefore it is conceived he was their Speaker, though not ſo named in the Record.

Sir *Peter de la Mare.* 49 *Ed.* 3.
Sir *Thomas Hungerford.* 51 *Ed.* 3.

This is the firſt named Speaker upon Record. 51 *Ed.* 3. *n.* 89.

Sir *Peirce de la Mare.* 1 *Rich.* 2.

Sir

Sir *James Pickering.* 2 *Rich.* 2.
Sir *John Goldesborough.* 3 *Rich.* 2.
Sir *John Goldesborough.* 4 *Rich.* 2.
Sir *Richard Walgrave.* 5 *Rich.* 2.

He was the first that made excuse, desiring to be discharged (for oughe appearing in Record;) but the King commanded him upon his allegiance to accept the place, seeing he was chosen by the Commons.

Sir *James Pickering.* 6 *R.* 2.

No Speaker recorded from 6 *R.* 2. to 17.
Sir *John Bushye.* 17 *R.* 2.

He was presented to the King in full Parliament by the Commons, the first I finde so presented; he was a special Minion to the King.
Sir *John Bushey.* 20 *R.* 2.

There are many Parliament-rols of *R.* 2. which mention no Speaker, as 11, 13, 14, 15, 16, 18.

Sir *John Bushey.* 21 *R.* 2.

This Parliament was held in the Palace yard of *Weſtminſter*, in a long houſe built with Timber of purpoſe, left open at both ends; both the Houſes ſate together therein, an eſpeciall place made for the Speaker: the cauſe of this extraordinary meeting was the impeachment of the Duke of *Glouceſter*, the Earl of *Arundel* and *Warwicke*.

Sir *John Cheyney*. 1. *H.* 4.

He is ſtiled in the Roll not onely *Parlour*, but *Procurator de les Commons*: the next day after he was preſented he grew ſick, and the *Commons* made choyce of Mr. *John Dorwood* in his place; and yet he came up with the Commons to the Lords Houſe, and prayed to be diſcharged, by reaſon of his infirmity, declaring whom the Commons had made choyce of, and prayed he might be accepted, which was granted; and he made the like Proteſtation as Sir *John Cheyney* had done, which was, that he might have liberty to amend any miſtaking in that which he ſhould deliver from the Com-

Commons, and made none of the other requests now usuall.

John Dorwood Esquire. 1. *H.* 4.

He made no excuse, for ought appeareth.

Sir *Arnold Savage.* 2. *H.* 4.

The first time appearing upon any Record that the Commons were required by the King to choose a Speaker, but afterward it is still continued, only omitted 16. of *Henry* the Fourth.

Sir *Henry de Redeford.* 4. *H.* 4.
Sir *Arnold Savage.* 5. *H.* 4.

After he had made the ordinary protestation concerning his own mistakings, he further desired the King, in the names of the Commons, that they might freely make complaint of any thing amisse in the Government, and that the King by the sinister information of any person would not take offensively that which they should

ſhould complain of in that behalf: which Petition was yielded unto by the King. 5.*H.*5. 11.8.

Sir *William Sturmy.* 6. H. 4.
Sir *John Cheyney.* 6. H. 4.

Parliamentum indoctorum, ſo called, becauſe in the writ of Summons there was a Clauſe no Lawyer ſhould be choſen.

Sir *John Tiptoft.* 7. H. 4.

He deſired to be diſcharged, becauſe of his youth, but he was nevertheleſs allowed of; but having forgotten to make the uſuall proteſtations upon the day of his allowance, he came up the next day and made it, and added further (which never any Speaker did before or ſince) that if any writing were delivered by the Commons this Parliament, and they ſhould deſire to have it again to amend any thing therein, it might be reſtored to them; which was granted, *R. Par.* 7. *Hemy* 4. *n.* 6. he was the ſonne of *John* Lord *Tiptoft*, and in the tenth yeare of

Henry

Henry the fourth was made Lord Treaſurer of *England*, and created Earl of *Worceſter* by *H.6.* while he was Speaker he ſigned and ſealed the Deed of the intailing of the Crown, 7 *H.* 4. with theſe words, *Nomine totius Communitatis.*

Thomas Chaucer Eſq.	9 *H.*4.
Thomas Chaucer Eſq.	10 *H.* 4.
Thomas Chaucer Eſq.	13 *H.*4.
William Stourton Eſq.	1 *H.*5.

This Speaker, without the aſſent of his Companions, did agree before the King to delivet in Parliament certain Articles; but about three days following, the Commons finding themſelver agrieved therewith, ſent unto the Lords (the King being then preſent) Mr. *John Dorewood*, and divers of the Commons with him, and declared to the King that their Speaker had no authority from them to yield thereunto, and therefore they deſired to be excuſed therein, which the King was pleaſed to accept: about 2. months after the Cómons coming before the King did preſent for their Speaker

Speaker the ſame Mr. *John Dorwood*, becauſe their old Speaker being ſick in his bed was not able to execute the place, whom the King allowed of.

John Doreward, Eſquire.	1 H.5.
Thomas Chaucer, Eſquire.	3 H.5.
Walter Hungerford, Eſquire.	2 H.5.
Richard Redman, Eſquire.	3 H.5.
Sir *Walter Beauchamp*.	3 H.5.
Roger Flower, Eſquire.	4 H.5.
Roger Flower, Eſquire.	5 H.5.
Roger Flower, Eſquire.	7 H.5.
Richard Baynard.	9 H.5.
Roger Flower, Eſquire.	1 H.6.
John Ruſſel, Eſquire,	2 H.6.
Sir *Thomas Wauton*.	3 H.6.
Richard Vernon, Eſquire.	4 H.6.
John Tirell, Eſquire.	6 H.6.
William Allington, Eſquire.	8 H.6.
John Tirel, Eſquire.	9 H.6.
John Ruſſel, Eſquire.	10 H.6.
Roger Hurſt, Eſquire.	11 H.6.
John Bowes, Eſquire.	14 H.6.
Sir *John Tirrel*.	15 H.6.
Sir *John Tirrel*.	17 H.6.

The King taking notice of the ſickneſs of the Speaker, and that by reaſon

ſon thereof he could not intend the affairs of the Parliament, commanded the Commons to make choice of a new Speaker; who accordingly did make choice of one Mr. *William Boerly*, and did by one *John Hody* (Knight of the Shire) inform the King thereof, who thereupon was allowed of by the King without any more ceremony.

William Boerly, Eſquire.	17 H.6.
William Treſſam, Eſquire.	18 H.6.
William Burley, Eſquire.	23 H.6.
William Treſſam, Eſquire.	25 H.6.
John Day, Eſquire.	27 H.6.
Sir *John Popham*.	28 H.6.

His excuſe by reaſon of his age and impotency by his ſervice in the warre, was allowed of by the King, and the ſame day the Commons preſented Mr. *William Treſham* for their Speaker, and he was allowed.

William Treſham, Eſq.	28 H.6.

He made no excuſe at all, for ought appearing on the Record.

Sir

Sir *William Oldham.* 29 *H.6.*

He made no excuſe.

Thomas Thorp, Eſq. 21 *H.6.*
Thomas Thorp, Eſq. 31 *H.6.*

He was arreſted in execution at the ſuit of the Duke of *York* between two Seſſions of Parliament; wherein the opinions of the Judges being demanded by the Lords, they anſwered, it belonged not unto them to judge of the liberties of Parliament; whereupon (without them) it was adjudged that he was not to have priviledge; which was ſignified to the Commons by ſome of the Lords, and the Kings pleaſure for preſent chuſing of a new Speaker was declared unto them; whereupon they forthwith choſe Sir *Thomas Charlton.*

Sir *Thomas Charlton.* 31 *H.6.*
Sir *John Wenlock.* 33 *H.6.*
Thomas Treſham, Eſq. 38 *H.6.*
John Green, Eſq. 39 *H.6.*
Sir *James Strargvaies.* 1 *Ed.4.*
John Say, Eſq. 7 *Ed.4.*

Williams

William Allington, Esq. 12 *Ed.*4.
William Allington, Esq. 17 *Ed.*4.
John Wood, Esq. 22 *Ed.*4.
William Catesby, Esq. 1 *R.*3.

In these times the Lord Chancellor, Speaker of the Lords House (being for the most part a Bishop) took a Text out of Scripture, or some other Theme, and grounded his Oration thereupon, therein declaring the cause of the Summons of the Parliament; and in conclusion thereof, as the use now is, declared to the House of Commons the Kings pleasure, that they should repair to their House and make choice of a Speaker, not naming any day when they should present him (as is now used;) and when the Commons had chosen their Speaker, they sent up some of their House to the Lords to desire them to intimate to the King that they had made choice of a Speaker, not naming whom, and to move the King to appoint a time when they should present him, and (commonly the King having been formerly spoken unto) the day agreed upon by the K. was declared to them

them; at the day appointed, the Commons presented their Speaker, who prayed that he might be excused; but his excuse not being admitted, he maketh the common protestation touching his own mistakings, without any petitions in the behalf of the Commons, as is now usual.

Thomas Lovel, Esq. 1 H.7.

After Knighted and made of the Privy Councel to King *Henry* 7. and *Henry* 8.

John Mordant. 3 *H.7.*
Sir *Thomas Fitzwilliams*. 4 *H.7.*
Richard Empson, Esq. 7 *H.7.*

Learned in the Laws, Recorder of *Coventry*, afterwards of the Privy Councel to *Henry* 7.

Sir *Reginald Bray*. 11 *H.7.*

He made the usual protestation for himself, but there is no mention at all upon the Record concerning any petition for the liberty of the Commons.

Robert

Robert Drury, Esq.	11 *H.*7.
Thomas Inglefield, Esq.	12 *H.*7.
Edmond Dudley, Esq.	19 *H.*7.

Learned in the Laws, he was afterward of the Privy Councel to *Henry* 7.

Sir *Thomas Inglefield.*	1 *H.*8.
Sir *Robert Sheffield.*	3 *H.*8.

Recorder of *London.*

Sir *Thomas Nevil.*	6 *H.*8.

The Speakers presentment, excuse, and protestation were only entered on Record before this time, but no oration of theirs till this time.

Sir *Thomas More.*	14. and 15. *H.*8.

Chancellor of the Dutchy of *Lancaster*, after Lord Chancellor of *England*; he was Speaker of the House of Commons in this Parliament, and Speaker of the Lords House the next; he made the usual protestation for himself, and prayed if any of the Com-

Commons ſhould in debate of matters ſpeak more largely then they ought, that it might be pardoned by the King; which the King granted.

Thomas Audley. 21 *H.*8.

Serjeant at Law, Chancellor of the Dutchy of *Lancaſter*, Lord Keeper of the Great Seal; in 24 *H.*8. made Lord Chancellor of *England*, and laſtly created a Baron: he made the uſual proteſtation for himſelf, but there is no mention upon the Record of any petition by him made in the behalf of the Commons.

I have not found any Speaker named in the Record or Chronicles in theſe years of *H.*8. *viz.* 22, 23, 24, 25, 26, 27.

Richard Rich. 28 *H.* 8.

Afterwards made L. Chancellor, and created a Baron; the firſt that is recorded to have made requeſt for acceſs to the King: from him are diſcended the Earls of *Warwick* and *Holland*, now living.

Sir

Sir *Nich. Hare.* 31 *H.*8.

Afterwards Maſter of the Rolls, and after that Lord Keeper of the Great Seal of *England*, after which he lived but fourteen days.

Thomas Moyle Eſq. 34 *H.*8.

The firſt that is recorded to have made petition for freedom of ſpeech; the petition for priviledge from arreſt is of latter dayes, but it appears in the firſt of *H.* 4. that Sir *John Cheney* then Speaker made a general requeſt that the Commons might enjoy their ancient priviledges and liberties, not naming any liberty in particular; and he is noted to be the firſt that is recorded to have made that requeſt, but they all make the uſual requeſt or proteſtation touching themſelves.

In the latter end of the reign of K. *H.*8. there is no mention made in the Parliament-Roll of the preſenting of any Speaker, nor in the time of *E.* 6. or Queen *Mary*, nor during the reign of

of Queen *Eliz.* when Sir *John Puckering* was Speaker, but the memories of the Speakers names of those latter times is onely presented in the Journals of both houses.

Sir *John Baker.* 1 *Ed.*6. to 5.

Four Sessions. Chancellor of the Augmentations.

Sir *James Dyer*, Knight. 7 *Ed.*6.

Serjeant at Law, afterwards Kings Serjeant, and Lord Chief Justice of the Common-Pleas.

John Pollard, Esq. 1 *Mary.*

Learned in the Lawes, he continued Speaker during two Sessions.

Clement Higham, Esq. 1. & 2. *P. M.*

Learned in the Lawes, and one of the Privy Councel, afterward Knighted, and made Lord Chief Baron of the Exchequer.

John

John Pollard, Esq. 2. and 3. *P.M.*

Learned in the Lawes, afterward made Serjeant.

William Cordal, Esq. 1. & 2. *P.M.*

Master of the Rolls and one of the Privy Councel; he was Knighted the day he made his Oration, and was Master of the Rolls when he was chosen Speaker; as may appear by comparing the date of his Letters Patents, with the time of his being chosen Speaker.

Sir *Thomas Gargrave*. 1 *Eliz.*

Learned in the Lawes, and one of the Queens Councel in the North: he made the four Requests, ever since and now usually made by most Speakers, as appears by his Oration.

First, for free accesse to the Queen.

Secondly, liberty of speech.

Thirdly, for priviledge from Arrests.

Fourth-

Fourthly, that his mistaking might not prejudice the House.

Thomas Williams Esq. 5 *Eliz.*

Learned in the Lawes.

Richard Onsloe Esq. 8 *Eliz.*

The Queens Solicitor; he was first chosen Member of the Commons House, and then being made Queens Solicitor had a writ to attend in the upper House, and upon the death of Mr. *Williams*, at the request of the Commons, was sent unto them, and they chose him their Speaker, but so, as the House was divided upon the question.

Christopher Wray Esq. 13 *Eliz.*

Learned in the Lawes, afterwards Lord Chief Justice of the Kings Bench.

Robert Bell Esq. 14 *Eliz.*

Learned in the Lawes, after made Ser-

Serjeant and Lord Chief Baron.

John Popham Esq. 23 *Eliz.*

Solicitor to the Queen, chosen in place of Sir *Robert Bell*, who was made Lord Chief Baron, and died also before this Session. Mr. *Popham* was afterwards made the Queens Atturney, and after Chief Justice of the Kings Bench, and one of the Privy Council, when he was chosen Speaker he was an Assistant in the Upper House, and sent for as Mr. *Ouslow* was.

Mr. Serjeant *Puckering* 27 *Eliz.*

Till twenty eight during two Sessions: afterwards made the Queens Serjeant and Lord Keeper of the Great Seal.

Mr. Serjeant *Snag.* 31 *Eliz.*

Afterward made Queens Serjeant.

Edward Cook Esq. 35 *Eliz.*

Solicitor general, afterward made Queens Atturney, and Knighted; Lord Chief Juſtice of the Common Pleas, a Privy Councellor, and laſtly made Lord Chief Juſtice of the Kings Bench.

Mr. Serjeant *Yelverton.* 39 *Eliz.*

Afterward made Queens Serjeant, and after that one of the Judges of the Kings Bench, and Knighted.

Mr. Serjeant *Crook.* 43 *Eliz.*

Recorder of *London*, afterwards made Serjeant to King *Iames*, and one of the Juſtices of the Kings Bench, and Knighted.

Mr. Serjeant *Phelips.* 1 *Iac.*

He was, during the time he was Speaker made Maſter of the Rolls, and yet ſate as Speaker.

Sir *Randph Crew.* 12 *Iac.*

Ser

Serjeant at Law, afterwards made Kings Serjeant and Chief Juſtice of the Kings Bench.

Sir *Thomas Richardſon.* 18 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant and Chief Juſtice of the Common Pleas, and after Chief Juſtice of the Kings Bench.

Sir *Thomas Crew.* 21 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant.

Sir *Thomas Crew.* 1 *Car. Reg.*
Sir *Heneage Finch.* 1 *Car. Reg.*

Recorder of *London,* Serjeant at Law.

Sir *Iohn Finch.* 3. & 4. *Car.*

Queens Atturney, afterwards made one of the Kings Councel at Law, then Chief Juſtice of the Common Pleas, and lately Lord Keeper of the Great Seal.

Iohn

John Glanvile Esq. 16 *Car.*

Serjeant at Law, at the Parliament begun the 13. of *April* 1640. and was dissolved *May* 5. following; and so continued but twenty two days, afterwards he was made the Kings Serjeant.

William Lenthal Esq. 16 *Car.*

Learned in the Lawes, one of the Benchers and Readers of *Lincolns*-Inne at the Parliament which begun *November* 3. 1640.

FINIS.

H669A

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